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Subject: Transmittal Final Report: National Environmental Justice Advisory Council's final report on EPA's Role in Addressing

the Urgent Water Infrastructure Needs of Environmental Justice Communities and EPA Administrator's Response

Letter

Attachments: NEJAC-Water-Infrastructure-Report-Final.pdf; NEJAC-Wheeler-Water-Infrastructure-Signe-Response-Letter.pdf

I have attached the National Environmental Justice Advisory Council's final report on EPA's Role in Addressing the Urgent Water Infrastructure Needs of Environmental Justice Communities and the EPA Administrator's Response Letter.

Thank You

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EPA's Role in Addressing the Urgent Water Infrastructure Needs of Environmental Justice Communities

August 2018

National Environmental Justice Advisory Council

A Federal Advisory Committee to the

U.S. Environmental Protection Agency

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DISCLAIMER

This report of recommendations has been written as part of the activities of the NEJAC, a public advisory committee providing independent advice and recommendations on the issue of environmental justice to the Administrator and other officials of the EPA. In addition, the materials, opinions, findings, recommendations, and conclusions expressed herein, and in any study or other source referenced herein, should not be construed as adopted or endorsed by any organization with which any Work Group member is affiliated. This report has not been reviewed for approval by the EPA, and hence, its contents and recommendations do not necessarily represent the views and the policies of the Agency, nor of other agencies in the Executive Branch of the Federal government.

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March 1, 2019

The National Environmental Justice Advisory Council is pleased to submit the report titled *EPA's Role in Addressing the Urgent Water Infrastructure Needs of Environmental Justice Communities*. The NEJAC developed this report in response to the Agency's charge from October 2016. The EPA requested that the NEJAC provide recommendations to identify tools and best practices to assist communities with environmental justice concerns in developing water system technical, financial and managerial capacity, and to address funding and financing needs for infrastructure planning, design and construction. Specifically, the NEJAC was requested to identify:

1. Priority Needs Identification

- a. What does the NEJAC understand to be the most significant challenges for communities in providing for safe and clean water?
- b. What can the EPA do, in collaboration with states and other stakeholders, to help gather data on water infrastructure needs/challenges for communities?
- c. What insights and examples can the NEJAC offer to states and the EPA to help identify communities of concern and inform priority-setting processes for providing assistance, including consideration of communities that face public health risks from regulated or unregulated contaminants suspected to be present in drinking water?

2. Tools for Community Capacity Building

- a. What best practices and tools would the NEJAC recommend to assist communities with the development of water system technical, managerial and financial capacity; and can the NEJAC provide examples of how these practices and tools have been used effectively?
- b. Can the NEJAC offer models or templates that provide for public input into the practices and tools?
- c. Are there certain practices and tools that are especially well-matched to particular types of communities in the categories of concern?
- d. Can the NEJAC provide examples of innovations that have helped communities develop water system capacity?

3. Community Engagement and Education

- a. What approaches and best practices would the NEJAC recommend to support meaningful community engagement and input to help inform funding priorities for state revolving fund programs?
- b. What steps can states, the EPA and other stakeholders take to encourage these communities to participate in local planning processes for determining

- 1) their priority infrastructure funding needs; 2) their infrastructure predevelopment needs and 3) their needs for technical assistance and training to develop water system capacity?
- c. What can states, the EPA and other stakeholders do to help educate communities where water and wastewater infrastructure issues exist?
- d. Are there ways that states, the EPA and other stakeholders could more broadly help educate communities about water and wastewater infrastructure issues?

4. Water System Partnerships

- a. In the NEJAC's experience, what are the barriers to water system partnerships and how can they be overcome?
- b. What can the EPA, working with states, communities and other stakeholders, do to inform and encourage communities to identify partnership opportunities and enter into sustainable partnerships?
- c. What can the EPA, states and other stakeholders do to increase collaboration within the water sector?
- d. How could the EPA and states work with drinking water and wastewater utility associations, colleges and universities, and research institutions to bring them into the conversation?

In response, the NEJAC's Water Infrastructure Work Group provided research, community-based information, and examples about the most significant challenges experienced by many communities. The NEJAC offers eight goals to achieve access to clean, affordable water and sanitation for all communities. Each goal corresponds to the charge questions:

- Governments treat water as a human right
- Request Congress to allocate more funding to help communities with infrastructure building, oversight and public health protection.
- Promote affordable water and wastewater rates.
- Prioritize issues in EJ communities.
- Involve EJ communities meaningfully in infrastructure decisions.
- Build community capacity in water systems.
- Support innovative technologies.
- Be accountable and rebuild public confidence and trust in regulations.

Additional details and explanations of our recommendations for achieving these goals are included in the attached report. The EPA should continue to create opportunities to address water infrastructure challenges and build capacity for environmental justice communities, which can greatly enhance the Agency's efforts for protecting human health and the environment. Thank you for this opportunity to provide recommendations. We look forward to hearing the Agency's response.

Sincerely,

Richard Moore Chair

Attachment

cc: NEJAC Members

Henry Darwin, Acting Deputy Administrator Brittany Bolen, Associate Administrator for the Office of Policy Matthew Tejada, Director for the Office of Environmental Justice Karen L. Martin, Designated Federal Officer and NEJAC Program Manager

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EXECUTIVE SUMMARY

Ensuring that all Americans have affordable, reliable, and sustainable access to safe drinking water and appropriate wastewater treatment and disposal is a defining problem of the 21st century. Providing access to clean, affordable water requires extensive infrastructure, collective protections, and government regulations. Congress enacted the Clean Water Act (1972) and the



NEJAC recommends EPA work to achieve these eight goals:

- 1. Governments treat water as a human right;
- Request Congress to allocate more funding to help communities with infrastructure building, oversight and public health protection;
- Promote affordable water and wastewater rates;
- 4. Prioritize issues in EJ communities;
- 5. Involve EJ communities meaningfully in infrastructure decision-making;
- 6. Build community capacity in water systems;
- 7. Support innovative technologies;
- Be accountable and rebuild public confidence and trust

Safe Drinking Water Act (1974), which provide the legal foundation to safeguard public health, protect the environment, and provide access to safe and clean water across the country. The Environmental Protection Agency develops standards and regulations and implements programs to ensure that state and local regulators and utilities understand their responsibilities and have the tools to treat water and sewage to deliver potable water to millions of residents.

However, water infrastructure demands, costs, and complexity mean many Americans do not have access to clean, affordable water, and sanitation. American public water systems and communities of all sizes are grappling with the need for water infrastructure maintenance or improvements to ensure clean, safe, accessible, and affordable drinking water and treatment of wastewater. Rising rates are making basic water and wastewater service unaffordable for lowincome consumers across the country. People are faced with choosing between paying their rent or paying their water and sewerage bills. Aging infrastructure, deferred maintenance, changes in regulations, limitations on water resources, and outside stressors increase the complexity and cost of ensuring access to the basic public health needs of safe drinking water and adequate wastewater treatment.

On October 4, 2016, EPA charged National Environmental Justice Advisory Council to advising the agency on water infrastructure and

capacity for environmental justice communities. See Appendix C for a copy of the charge. EPA identified three specific types of communities of concern:

- 1. Small (less than 10,000 population), low-income communities;
- 2. Economically-stressed communities, including unincorporated areas; and

3. Low-income households located within a drinking water or wastewater utility service area where the community as a whole is not economically stressed. This group includes both individual houses scattered around a community and a subset of a community where all, or most, of the houses in that area are low-income ("pockets of poverty").

NEJAC addresses the charge questions by providing research, community-based information, and examples about the most significant challenges experienced by many communities. NEJAC offers eight goals to achieve environmental justice in providing clean, affordable water and sanitation to all Americans. Each goal corresponds to the charge questions:

- 1. Governments treat water as a human right. (All Charges).
- 2. Request Congress to allocate more funding to help communities with infrastructure building, oversight and public health protection. (Charge 1.a).
- 3. Promote affordable water and wastewater rates. (Charge 1.a, 1.b, 1.c)
- 4. Prioritize issues in EJ communities. (Charge 1.b, 1.c)
- 5. Involve EJ communities meaningfully in infrastructure decisions. (Charges 3, 4)
- **6.** Build community capacity in water systems. (Charges 2, 3, 4)
- 7. Support innovative technologies. (Charges 1.c, 2.d, 4)
- **8.** Be accountable and rebuild public confidence and trust in regulations. (All Charges)

While many stakeholders will play a role in achieving these goals, our recommendations here focus specifically on what EPA can do to make this vision a reality. We recognize that EPA currently lacks the resources to carry out fully our recommendations. For this reason, our primary recommendation calls for the EPA to build a coalition of federal, state, local, and community stakeholders to work collectively on these recommendations. The top priority should be to secure more funding from Congress for clean water infrastructure investments and programs, then allocate them first to environmental justice communities. We believe many of the recommendations outlined here can be acted upon today and such actions should not be delayed.

Among the priorities that the EPA can do to achieve clean, safe, accessible and affordable drinking water and sanitation services for all Americans are:

- Urge Congress to appropriate more federal funding for water infrastructure grants and loans, prioritizing environmental justice communities;
- Encourage water utilities to diversify funding mechanisms for water infrastructure design and improvement;
- Target meaningful outreach in environmental justice communities;
- Develop policies and protocols with state water quality regulators to ensure that a "Flint crisis" never happens again;
- Conduct detailed infrastructure assessments, especially in vulnerable environmental justice communities;
- Establish a household action level for lead in drinking water;

- Identify inadequate enforcement of the Clean Water Act, Safe Drinking Water Act, and the Lead and Copper Rule where states and local regulators fail to do so;
- Work with federal and state agencies after a disaster to provide immediate potable water in larger quantities to meet emergency needs and maintain public health;
- Encourage and support efforts to build local water system capacity including training operators and sharing best practices; and
- Work directly with residents in environmental justice communities to educate communities about water infrastructure issues.

EPA has the organizational capacity, technological expertise, and legal authority to address these challenges and implement solutions. The agency is well-situated to help local operators and state regulators meet water infrastructure needs.

Within this report, NEJAC highlights specific examples of vulnerable communities where residents across U.S. states, territories and Indigenous Nations do not have access to clean, safe drinking water and proper sanitation. EPA continues to serve an important and vital role in enforcement, training and dissemination of information to public and private stakeholders. These eight goals and accompanying recommendations will help EPA lead states and communities toward a safer, cleaner future. The research and recommendations in this document attempt to convey the depth and breadth of water infrastructure needs and concerns across communities, but they are by no means exhaustive. The complexity of the nation's water infrastructure needs will require vigilant communication and information to reduce and prevent wide-scale contamination, costs and harm. Through NEJAC's work, we are resolved to share with the EPA relevant data and to bring visibility to the environmental justice needs and solutions of residents in cities, states and indigenous lands.

Finally, it should be noted at the outset that this document, by the nature of the charge from EPA and the limitations of the format, addresses only a portion of the very complex web of issues associated with water. The following are subject areas either not addressed or not completely addressed here that have profound impacts on environmental justice communities and are thus worthy of full consideration as one or more separate future charges to the NEJAC:

- The legacy of redlining as it intersects with water quality issues. Specifically, the
 historical and current discrimination that has seen people of color pushed to the 'least
 desirable land' be that land subject to flooding or drought, unincorporated areas and poor
 rural communities excluded from water rights, or low income communities without the
 resources to maintain their water infrastructure.
- Historical water access rights; or low prioritization of uses in areas of scarcity such as in California and other western state where residential, industrial, commercial and agricultural users all must draw from tightly rationed and controlled watersheds crossing multiple jurisdictions.
- A more detailed look at how water access, water infrastructure, and water rights/uses intersects with issues of tribal sovereignty.

- Regional differences in water needs, infrastructure, and stressors. For example, in the
 Western continental US priority issues may be on drought, recycling, conservation costs,
 and desalinization, while the Southeast U.S. and the Mississippi River watershed may
 focus more on water quality, flooding control, storm water management, and wastewater
 treatment.
- Rate setting and incentives and how they impact communities. Specific questions here
 may also vary by region as to who sets rates, how they are determined and adjusted, how
 or if specific sectors are allocated incentives or allowances, how "reasonable usage"
 levels are determined, and what assistance is in place to help residential customers
 control costs.
- A deeper dive into issues of system maintenance and agency governance including such topics as the criteria and evaluation process for deciding if smaller systems/ rural communities are to integrate or can be integrated into larger systems, and what voice those communities will have in governance. How can this be done in a way that doesn't burden either those joining larger systems or those already in larger, better maintained systems that take on those 'less advantaged'?
- An exploration of the Water/Energy Nexus. Many communities, particularly rural
 communities, need to make extensive use of pumps to move water for farming and
 household use. Older equipment makes this inefficient and thus very expensive while
 also contributing to pollution burdens either regionally (electric pumps drawing power
 from the grid) or locally (diesel pumps).

Goal 1: GOVERNMENTS TREAT WATER AS A HUMAN RIGHT

Water is essential to human life. But in the United States today, a community's drinking water quality and wastewater disposal depends heavily on that community's wealth, racial demographics, and access to political capital. Our nation's children cannot live long, healthy, productive lives without consistent and reliable access to clean water and sanitation. As a member of the United Nations and a world leader, the United States should be treating water like any other public good, such as education and police protection—all our residents deserve clean water. Instead, we treat water as a commodity to be bought and sold by those who can afford it. We treat water like an amenity, instead of a vital necessity. Providing water and sewage only to those who can afford to live in an area with an expensive functioning infrastructure sends the

message to neglected communities that their access to clean water and sanitation is a luxury. Those who suffer greatest from this reasoning are the most vulnerable, including those who are low-income, communities of color, those with disabilities, children, and the elderly.¹

The World Health Organization firmly states, "Water safety and quality are fundamental to human development and well-being. Providing access to safe water is one of the most effective instruments in promoting health and reducing poverty."² In fact, in 2010, the United Nations General Assembly passed Assembly Resolution 64/292, formally recognizing the position that clean water and sanitation is a human right. Sadly, the people of Detroit, Michigan can attest that the United States does not follow this Resolution. In 2014, two United Nations Special Rapporteurs visited Detroit in the aftermath of massive water shut-offs by the city due to low-income residents' inability to pay increasingly unaffordable water and sewage bills. Thousands of residents no longer had running water and proper sanitation in their homes. Most of these residents are African American and other people of color. The UN representatives considered the city's draconian actions to be a serious violation of human rights, and they urgently called for Detroit's municipal government to restore basic water and sanitation to the city's most vulnerable.³

Water Should Be:

<u>Safe</u> – without pathogens, and carcinogens

Sufficient – at least 13 to 26 gallons per person, daily – although U.S. consumption is typically 3-4 times more.

<u>Acceptable</u> – clear, free from bad smells and tastes

Accessible – to people of all demographics, geographies and territories

Affordable — cost less than 3% of household income

Source: United Nations General Comment No. 15. The right to water. UN Committee on Economic, Social and Cultural Rights, November 2002.

¹ Consumer Federation of America, *The Campaign For Safe And Affordable Drinking Water*. Are You More Vulnerable To Drinking Water Contaminants? *Available At* https://Consumerfed.Org/Pdfs/Vulnpop.Pdf

² World Health Organization, Water Sanitation Hygiene, http://www.who.int/water_sanitation_health/water-quality/en/.

³ UN News Centre, In Detroit, city-backed water shut-offs 'contrary to human rights,' say UN experts, http://www.un.org/apps/news/story.asp?NewsID=49127#.WgIGSo9Szcs.

Several U.S. universities have established human rights clinics and environmental law schools to study international covenants and agreements alongside federal and state legislation and local policies regarding basic needs and utilities. Nearly all scholars agree that U.S. courts do not recognize or reference international human rights protocols, and Congress has not ratified United Nations' human rights treaties on water and sanitation. But federal laws do promote particular aspects of water rights and sanitation through provisions in the Clean Water Act (1972), Safe Drinking Water Act (1974) and Resource Conservation and Recovery Act (1976). Sharmila Murthy's research on a constitutive commitment to water offers, "American history, culture, and law demonstrate how access to water for drinking, hygiene, and sanitation could be protected under the right to life". 4

Water is not a luxury. Every person needs safe water to drink, bathe, cook, and clean and every community needs a working wastewater system to prevent the spread of disease, bacteria and parasites. When poor communities are denied access to clean, safe, affordable water and sanitation (specifically low-income communities and communities of color), they are put at a high risk for waterborne diseases and pathogens (such as cholera, typhoid, legionella, and polio); and, particularly in First Nations, organ failure (e.g., kidney and heart) from uranium mining contamination in water, soil and air. Moreover, inadequate aging infrastructure puts residents at risk for exposure to heavy metals and contaminants (including lead and arsenic), or dangerous bacteria from sewage overflows. Exposure to these pathogens can lead to a public health crisis. Lack of residential water service has a cascade effect: without running water into the home, the living quarters are deemed uninhabitable and children may be removed by social services. In several cities such as Baltimore and Philadelphia water bills may be placed on property taxes leading to home foreclosures, empty neighborhoods and broken communities.

Recommendations. To address the inherent unfairness of unequal access to clean, safe, affordable water and sanitation infrastructure, NEJAC strongly recommends EPA take several steps to treat water as a human right:

• Change the Culture.

EPA should promote stakeholder education across the nation to promote water as a human right. Specifically, EPA must publicly and unequivocally acknowledge water and sanitation inequities in communities of all sizes, and the consequences that arise when they are denied or not available to vulnerable peoples. It is a disturbing reality that not everyone in this country has the same level of access to clean, safe, affordable water and sanitation. This requires shifting our

⁴ A New Constitutive Commitment to Water, Boston College Journal of Law and Social Justice, vol. 36, p. 159 (2016), Suffolk University Law School Research Paper No. 15-37. https://papers.csm.com/sol3/papers.cfm?abstract_id=2669380

⁵ World Health Organization, *Drinking Water*, http://www.who.int/mediacentre/factsheets/fs391/en/

⁶ Center for Water Policy, University of Wisconsin-Milwaukee, *Water Main Breaks Expose Public to Waterborne Disease Risk*, http://home.freshwater.uwm.edu/mclellanlab/files/2013/06/6-21Water-main-breaks-expose-public-to-waterborne-disease-risk.pdf.

nation's priorities and practices. Treating water as a human right prioritizes the human needs behind significant, long-term investments in water infrastructure. EPA should take the lead on promoting a national public dialogue on the importance of water as a human right for all communities, not just those who can afford it. Internally, EPA should stress this philosophy at each and every level of the agency as it works with communities to protect human and environmental health.

♦ Change the Policy.

EPA should encourage internal as well as external policy shifts in establishing universal rights to water and sanitation. EPA can urge the consideration and implementation of legal protections at the state and local level to prevent water shut-offs for vulnerable populations, and should stress the importance of consistent access to clean water and sanitation as a human right. The agency can leverage federal funding or examine other ways to encourage water utilities to remove financial incentives for high volume users that will shift proportional rates to those same users, thereby, promoting more equitable standards and reducing costs for lower water using customers and potentially low income customers.

Enforce the Safe Drinking Water Act and Promote Municipal Water Rights Policies.

EPA should quickly and efficiently enforce the required laws governing drinking water and sewage in low-income communities regarding human health protections. EPA should directly respond to inadequate state and local compliance, especially where vulnerable communities experience repeated problems. The agency has an obligation and the legal authority to ensure a community's access to clean water and sanitation. When communities are exposed to contaminated water, EPA should treat that exposure as a violation of human rights, and use the full power of the agency to work quickly and decisively to rectify those violations.

Successes: Several states around the country are ensuring access to clean water and adequate wastewater infrastructure for all. EPA can promote and support these initiatives by drawing national attention to these efforts, and encouraging other states to follow suit. Examples include:

- Boston, Massachusetts "Right to Service" Policy: Boston protects senior citizens and the people with disabilities from water shut-offs and ensures the city's most vulnerable residents will not be at risk from inability to pay their water bill. Eligibility is based on financial hardship.
- California's Human Right to Water Bill: California became the first in the nation to pass a law that explicitly recognizes the human right to clean water. The law also prioritizes domestic drinking water for human consumption over commercial water use. It directs the relevant state agencies to consider this law when implementing policies.

State of Hawai'i Water Code. Hawai'i State Water Code recognizes that the waters of the State are held for the benefit of the citizens of the States. It is declared that the people of the State are beneficiaries and have a right to have the waters protected for their use.

NEJAC believes that the role and responsibilities of the Environmental Protection Agency provide a critical juncture for assessing, implementing and enforcing the human rights to water and sanitation as issues of environmental justice. In conjunction with other federal departments to advance and redress civil rights, housing, indigenous, health and human services, migrant and environmental concerns, the "EPA has been taking a more active role in working with various federal agencies to identify and address the environmental and public health issues raised by NGOs, community-based organizations, tribal governments and other interested parties in relation to the U.S. government's international human right obligations and commitments". This Council strongly encourages the EPA to continue its involvement with human rights treaty bodies and mechanisms while engaging with U.S. civil society groups to treat water and sanitation as human rights.

Goal 2: REQUEST CONGRESS TO ALLOCATE MORE FUNDING TO HELP COMMUNITIES WITH INFRASTRUCTURE BUILDING AND PUBLIC HEALTH PROTECTION.

Across the United States, communities are struggling to keep clean, safe water flowing to the tap and to safely dispose of wastewater. These struggles are directly tied to the fact that we, as a nation, have not made significant investments in our water infrastructure since the 1970s when Congress passed the Clean Water Act and the Safe Drinking Water Act. Over the last few decades, Congress has slashed federal funding that helps states pay for water infrastructure maintenance and upgrades. Faced with a myriad of other pressing issues, water utilities and states are failing to set aside enough money for drinking water infrastructure, sewer repairs, and upgrades. The lack of available federal funds for infrastructure means municipalities have deferred upgrades, which in turn has increased the risk of water line breaks and sewage overflows. Deferring critical maintenance increases the risk of catastrophic failure of water infrastructure for millions of Americans.

When deferring maintenance results in infrastructure failures, the utility will have to raise water rates to pay for required maintenance, repairs, and replacement. But those increased water rates are making basic water and wastewater service unaffordable for low-income communities across

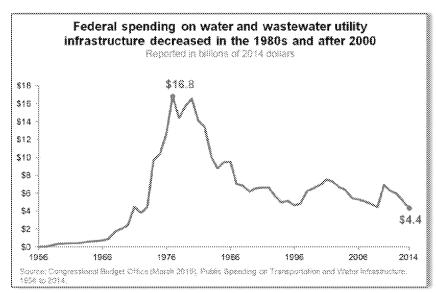
⁷ EPA's Role in Promoting International Human Rights, Rights of Indigenous Peoples, and Environmental Justice, https://www.epa.gov/environmentaljustice/epas-role-promoting-international-human-rights-rights-indigenous-peoples-and

⁸Value of Water Campaign, The Economic Benefits of Investing in Water Infrastructure (2017)

the country. Small, unincorporated communities, orphaned systems, and those serving vulnerable, impoverished populations require urgent attention. These communities do not have adequate resources to repair and replace infrastructure, or to build new systems. Some rural communities have not had working septic systems despite decades of pleas for help.

Nearly every community across the U.S. needs sufficient funding, along with well-trained staff, to provide safe drinking water and manage sewage. Doing so helps protect public health and the environment. Yet, EPA has documented enormous national needs for investment in water infrastructure. National reports have documented long-time problems with lead service lines in communities such as Washington, D.C. and in New Jersey that have had significant consequences. ¹²

The agency's most recent nationwide surveys of local governments and utilities conservatively estimated approximately \$473 billion needs to be invested within the next twenty years to bring our nation's infrastructure up to environmental and public health standards. ¹³ Strangely, this number is down from the estimated \$660 billion 20-year



investment need estimated in 2012, despite new concerns about lead in drinking water and other drinking water threats. 14

⁹ Brett Walton, *Price of Water 2015: Up 6 Percent in 30 Major U.S. Cities; 41 Percent Rise Since 2010*, Circleofblue.Org (Apr. 22, 2015) http://www.circleofblue.org/2015/world/price-of-water-2015-up-6-percent-in-30-major-u-s-cities-41-percent-rise-since-2010/ (last visited Dec. 15, 2017).

¹⁰ Jon Davis, Aging infrastructure, lead pipes, nitrate runoff and funding among challenges vexing Midwest's drinking water systems, (Mar. 2016) CSG MIDWEST.ORG,

http://www.csgmidwest.org/policyresearch/0316-drinking-water.aspx (last visited Dec. 15, 2017).

¹¹ See Appendix B, Case Studies: Lowndes, Alabama.

¹² Darryl Fears, *It's not just Flint. Lead taints water across the U.S., EPA records show.* Washington Post (March 17, 2016). https://www.washingtonpost.com/news/energy-environment/wp/2016/03/17/its-not-just-flint-lead-taints-water-across-the-u-s-the-epa-says/?utm_term=.9e6dabc8840b

¹³ EPA, Drinking Water Infrastructure Needs Survey and Assessment, Sixth Report to Congress (March 2018) *available at* https://www.epa.gov/drinkingwatersrf/epas-6th-drinking-water-infrastructure-needs-survey-and-assessment.

¹⁴ EPA, Drinking Water Infrastructure Needs Survey and Assessment, Fifth Report to Congress (Apr. 2013), available at https://www.epa.gov/sites/production/files/2015-07/documents/epa816r13006.pdf; EPA, Clean Watersheds Needs Survey, Report to Congress, available at https://www.epa.gov/cwns/clean-watersheds-needs-survey-cwns-2012-report-and-data

The American Water Works Association, estimates it will cost over \$1 trillion over the next 25 years to upgrade existing drinking water systems and expand them to meet our growing population. In 2010, EPA estimated the cost of capital investments required to maintain and upgrade nation-wide drinking-water and wastewater treatment systems at \$91 billion but only \$36 billion was funded, leaving a capital funding gap of nearly \$55 billion. For 2017, EPA allotted just over \$2 billion in loans for the Clean Water and Drinking Water State Revolving Funds.

These federal loans can be leveraged through the sale of tax-exempt bonds to generate additional funds that can be loaned to municipalities for eligible drinking water systems. While the state revolving loan funds are an asset to communities, some water utilities do not receive funding because they have poor credit or are considered a bond risk and/or they do not rank high on the Integrated Priority Ranking System compared to others who are applying. For example, a water utility that requires pipe replacement will rank much lower on the list than one who is in violation of a health-based standard. The Federal Rural Development Authority strongly suggests that states award parties that are able to repay the money back to the Fund. This pressure puts states in a bind to award funding to a party when most likely they will fold on their bond and/or funding, even though those communities might have the greatest need for financial support.

Lack of expertise compounds the problem. Small communities typically do not have well-paid, well-trained staff to run their wastewater systems. Competition can be strong for water and wastewater professionals, especially those with considerable experience and higher-level certifications. Small and economically disadvantaged communities are most in need of expert operators and managers, but frequently are least able to pay a full-time salary. These systems often rely too heavily on unpaid volunteers or part-time operators with limited technical knowledge, obscuring the system's true operating costs. Programs like the Rural Water Utilities' Circuit Rider program provides technical support for rural water operations experiencing day-to-day financial, operational, or management challenges. Rural water system officials may request assistance from the Rural Utilities Service, or Rural Utilities Service staff may request assistance on behalf of the system.

Additionally, many medium and large system operators are anticipating a significant loss of skilled, senior operators with many in transition for retirement; and too few trainees in position to serve as a next generation of water and wastewater professionals. A lack of expertise and infrastructure management at all levels can lead to a costly and devastating public health crisis. For example, one cause of the Flint Water Crisis was Michigan Department of Environmental Quality (MDEQ) budget cuts and staffing changes. ¹⁸

American Water Works Association, "Buried No Longer: Confronting America's Water Infrastructure Challenges," https://www.awwa.org/Portals/0/files/legreg/documents/BuriedNoLonger.pdf
 American Society of Civil Engineers, "Failure to Act" (2011) http://www.asce.org/uploadedFiles/
 Issues and Advocacy/Our Initiatives/Infrastructure/Content Pieces/failure-to-act-water-wastewater-report.pdf

¹⁷ EPA, https://www.epa.gov/cwsrf/clean-water-state-revolving-fund-cwsrf-allotments-federal-funds-states; https://www.epa.gov/drinkingwatersrf/annual-allotment-federal-funds-states-tribes-and-territories

¹⁸ Signs of trouble at MEDQ, years before Flint water crisis. (10 Feb 2016). MLIVE.COM, http://www.mlive.com/politics/index.ssf/2016/02/signs of trouble at mdeq years.html

In Puerto Rico, Hurricane Maria decimated the island's drinking water infrastructure for more than nine months leaving over 3.5 million residents without adequate potable water and sanitation. This U.S. territory resembles many rural regions on the mainland with small water systems that serve fewer than 10,000 people that oftentimes are locally owned and operated. Puerto Rico has approximately 300 of these small water utilities and the residents who operate them also lost their homes adding to the difficulty of rebuilding operations.¹⁹

Water-related public health problems require attention. Our nation's leading public health organizations, including the Centers for Disease Control and Prevention and the American Public Health Association, recognize lack of access to safe and clean water -- either due to a non-existent or inadequate system or because water service has been shut off -- as a serious public health concern.²⁰

Water shutoffs have become a common practice among water system operators to induce payment from delinquent customers. But this collections strategy fails to recognize or address the household and public health problems that are created when residents cannot properly hydrate, prepare meals or manage their personal hygiene for work or school. In Michigan, public health officials and the Department of Health and Human Services (DHHS) have issued daily alerts about Hepatitis A since its outbreak in August 2016. This highly contagious virus is fecal to oral transmitted and can be transferred by eating contaminated food or water. Vaccination and frequently hand washing are recommended to prevent the spread of Hepatitis A yet there continues to be an elevated number of cases. Fears about its multi-county and long-standing occurrence have led to travel advisories by several U.S. state and Canadian travel bureaus.

Another cause for public health concern among older water systems is the anticipated end of life expectancy among many lead service lines and galvanized pipes across the country. Thousands of miles of water lines have reached their expiration for safety and strength as public officials and system operators grapple with how and when to remove and pay for much needed replacements. New and emerging Superfund clean-up sites overseen by the EPA add further imperative to protect surface and ground water supplies.

¹⁹ Puerto Rico teenagers take post-Maria water safety into their own hands (Mar 26, 2018),

https://grist.org/article/puerto-rico-teenagers-take-post-maria-water-safety-into-their-own-hands/

EPA, National Enforcement Initiative: Keeping Raw Sewage and Contaminated Storm water Out of Our
Nation's Waters, <a href="https://www.epa.gov/enforcement/national-enforcement-initiative-keeping-raw-sewage-and-contaminated-stormwater-out-out} (last visited Dec. 15, 2017); Centers for Disease Control and Prevention CDC,
Hygiene Challenges and Resources in Lower Income Countries, ("The greatest... challenge] [to good hygiene] is
the lack of clean water. [W]orldwide, there are 1.6 million deaths per year attributed to diseases spread through
unsafe water, poor sanitation, and lack of hygiene") https://www.cdc.gov/healthywater/hygiene/
ldc/hygiene_challenges.html; APHA, APHA applauds EPA's Clean Water Act rule (May 27, 2015)("Our nation
relies on clean water for basic survival.... When that water is polluted, Americans are at risk of exposure to a
number of harmful contaminants."), https://www.apha.org/news-and-media/news-releases/apha-news-releases/2015/epa-announces-clean-water-rule

¹⁴ Michigan Hepatitis A Outbreak https://www.michigan.gov/mdhhs/0,5885,7-339-71550 2955 2976 82305 82310-447907--,00.html

Recommendations.

EPA should bring together federal, state and local government, nonprofit, and community stakeholders to request Congress to significantly increase its appropriations for water infrastructure investments and programs.

Since 1987, states have provided nearly \$160 billion to support local communities' infrastructure investment through the federallyprovided Safe Drinking Water Revolving Funds, primarily in the form of low-interest loans. 22 The current state of infrastructure neglect and the risk of catastrophic failure in multiple states will require greater funding to keep up with the dire need for repair and replacement. Congress has appropriated less and less money (adjusted for inflation) to fund water infrastructure over the past several decades. A large, sustained investment into the Revolving Funds would allow

State Initiatives:

Minnesota

In 2008, Minnesota voters passed the Clean Water, Land and Legacy Amendment to the State Constitution. The Legacy Amendment solidifies the state's commitment to environmental protection, while also raising funds for environmental and water quality initiatives. The Amendment increases the sales tax by 3/8th of 1% through 2034. The fund is split into four categories, and 33% is allocated specifically for clean water. The state must use 5% of that fund on drinking water projects.

Missouri

In the state of Missouri, cities can impose special assessments and programs such as Neighborhood Improvement Districts or Community Improvement Districts that impose singular assessments such as special sales taxes or property tax levies to fund water infrastructure projects for Community or Neighborhood Improvement Districts, or they can utilize tax increment financing.

communities to prioritize their infrastructure for upgrades, and stop the practice of deferring maintenance. One expert suggests Congress increase combined federal funding for the Revolving Funds to a conservative \$6 billion annually, to adequately address the national need.²³ The FY2018 budget includes \$2.3 billion for the Clean Water and Safe Drinking Water Revolving Funds and \$20 million for the new Water Infrastructure Finance and Innovation Act (WIFIA).²⁴ While we recognize that Congress appropriates funding for the Clean Water and Safe Drinking Water Revolving Funds, we urge the EPA Administrator to ask for increased funding for these programs and WIFIA in the coming years.

Additionally, the need for infrastructure repairs, replacements and small systems support for commonwealths like Puerto Rico, as well as indigenous territories, should not be de-prioritized or funded differently than states simply due to the formers' political status or sovereign rights. Federal infrastructure investments historically and inevitably cross state and territorial

²² See https://www.epa.gov/cwsrf and https://www.epa.gov/drinkingwatersrf/how-drinking-water-state-revolving-fund-works#tab-1.

²³ Testimony of Lawrence M. Levine, Senior Attorney, Natural Resources Defense Council, U.S. House of Rep. Sept. 26, 2017.

²⁴ FY2018 EPA Budget in Brief. https://www.epa.gov/sites/production/files/2017-05/documents/fy-2018-budget-in-brief.pdf

boundaries in promotion of progress and safety for all communities. (See Appendix C case study for more detail.)

EPA should encourage states to prioritize and provide grants or loan forgiveness to environmental justice communities.

EPA should work with states and local governments to creatively build a funding portfolio for water infrastructure, specifically for communities of color and low-income communities. In distressed and neglected communities, repaying a loan is a significant barrier and burden. To generate revenue to repay the loan, utilities often raise rates. For low-income and fixed-income individuals and families, a rate increase is a big deal to their monthly bottom line. Additionally, small, unincorporated communities typically will not qualify for these infrastructure loans because they cannot pay them back. Grants would allow the community to make desperately-needed improvements without passing the costs onto residents. EPA's Water Finance Clearinghouse is one place communities may identify grant opportunities, but these communities will need EPA's assistance in applying for grants and accessing other forms of matching funds.

Disproportionately impacted regions like Flint and Puerto Rico must be given infrastructure replacement and repair priority when entire communities are contaminated, devastated and in dire need of emergency relief, especially after prolonged periods of suffering. (Appendix A outlines an instrumental six-month program by Rural Community Assistance Corporation's Water Boards Leadership Institute for community capacity development.)

EPA should support capacity building and apprentice programs by prioritizing grants for training and retaining water infrastructure professionals in environmental justice communities.

When a community has an expert at the helm of their water system, that expert can ensure the community understands and complies with water quality standards. EPA can help environmental justice communities by offering funds specifically earmarked to fund positions and training for professional infrastructure jobs within the system. These funds would facilitate hiring qualified operators and engineers to proactively identify, prioritize and plan for water infrastructure repairs and upgrades; and compensate small system volunteers. EPA should also encourage sponsorships within these communities, partnering with professional associations, apprentice programs and Historically Black Colleges and Universities to sponsor water infrastructure job training and engineering programs. These programs should aim to educate local residents, who will be encouraged to stay and work in their community.

Goal 3: PROMOTE AFFORDABLE WATER AND WASTEWASTE RATES

Every household should have access to running water and sanitation services at an affordable

price. However, water and wastewater service bills are rising drastically as utilities try to keep these systems functioning. In many parts of the country, rates are increasing faster than the inflation rate. These rate increases often become unsustainable for low-income utility customers. The EPA should seek goal standards toward the fundamental right to drinking water and sanitation in the United States. 25 As reported by the National League of Cities: A new federalism is emerging as one in which cities lead the nation's most critical challenges, and can be seen prominently in the funding and managing of our infrastructure systems. 26 Among U.S. jurisdictions that regulate quality and guarantee physical access as a statutory or regulatory right, we find state and local officials often do not acknowledge rate affordability issues or how poverty and racial discrimination impact access to clean water and sanitation. ²⁷ While some utilities and municipalities are proactive in assisting lowincome ratepayers, there is no federal water infrastructure customer affordability framework, unlike other utilities such as electricity.

Water assistance and affordability authorization.

Energy utilities are mostly regulated through a state-level public utility commission or public service commission that

Communities Need Assistance

In EPA's recent review of 795 water and wastewater utilities, 71 percent surveyed offered no customer assistance program. Moreover, of the customer assistance programs identified, about half offered only short-term relief for customers facing temporary financial hardship, or "flexible" payment terms to customers in arrears.

See EPA, Drinking Water and Wastewater Utility Customer Assistance Programs, (April 2016).

approves rate increases and a utility's rate of return. While privately owned water utilities are regulated in much the same way, these types of utilities are a minority of systems. Most have some type of public ownership and with the exception of Wisconsin, few states directly regulate the rates of these types of systems. Some of these entities have created a form of customer payment assistance or budget billing for customers struggling to make monthly payments on water and sewage bills. There is no express authority for public funding of customer assistance or affordability programs for such. Water utilities oftentimes dismiss affordability programs

²⁵ See, e.g., Martha Davis Let Justice Roll Down: A Case Study of the Legal Infrastructure for Water Equality and Affordability, 23 Geo. J. Poverty Law & Pol'y 355, 357 (2016); The existing federal framework on the right to water primarily consists of two statutes, the 1972 Clean Water Act and the 1974 Safe Drinking Water Act. Neither recognizes a right to safe drinking water. See Clean Water Act, 33 U.S.C. § 1251 (2012); Safe Drinking Water Act, 42 U.S.C. § 300f (2012).

²⁶ National League of Cities, "Paying for local infrastructure in a new era of federalism: A state-by-state analysis." 2016. https://www.nlc.org/sites/default/files/2016-12/NLC_2016_Infrastructure_Report.pdf

²⁷ See, e.g., Juliet Christian-Smith Et Al., A Twenty-First Century Us Water Policy 52-53, 57-60 (2012).

because they do not know if they can legally implement an income-based affordability program or, in the case of municipalities if the elected leaders will support their efforts to subsidize low income residents with their utility costs.

Furthermore, utility operator and EPA discussions of "affordability" primarily focus on "affordability of federal water mandates," namely, water utilities delaying the necessary system upgrades required to meet pollution and water quality laws and regulations. ²⁸ Currently, there is no federal law, program or funding specifically earmarked for keeping water and sewage rates affordable for those who are of limited means. ²⁹ The EPA uses a residential indicator based on a community's median household income (MHI) to determine affordability when evaluating wastewater and stormwater compliance measures, not whether the cost of services is actually affordable to low-income households. ³⁰ This percent of MHI affordability metric only looks at overall affordability, not the affordability at an individual household level. A recent National Academy of Public Administration report found that the EPA's 1997 guidelines should be updated to better account for the burden on poor households and costly infrastructure projects for federal clean water compliance. This type of affordability consideration will require new metrics and rate designs.

Addressing affordable water rates and billing for low-income customers has become a contested topic among system operators, investors, officials and other rate-payers who challenge the EPA's affordability guidance concept.³¹ Unlike assistance programs that work on the assumption of providing temporary relief to residents who are experiencing short-term difficulty paying utility bills, affordability programs recognize long-term payment problems among low-income customers, along with on-going debt collection efforts, that subject the customer and water system operators to additional costs and burdens.

Moreover, a new 2018 study of residential water shutoffs by public systems across the U.S. revealed that more than half a million households were disconnected for unpaid bills in 2016.³² The report noted that poor cities and urban areas with large populations of people of color had the highest number of shutoffs. Among the cities with the highest rates of residential disconnection (i.e., at least 10 percent of the residents,) were in Tulsa, Oklahoma; Springdale, Arkansas; New Orleans, Louisiana; and Detroit, Michigan. With these critical findings among environmental justice communities, NEJAC strongly urges EPA to provide resources and

²⁸ See EPA Policies Concerning Integrated Planning and Affordability of Water Infrastructure; https://fas.org/sgp/crs/misc/R44223.pdf; EPA Water Infrastructure and Resiliency Finance Center, https://www.epa.gov/waterfinancecenter/financial-technical-assistance-and-tools-water-infrastructure#affordability
²⁹ UNC Env. Finance Center, Navigating Legal Pathways to Rate-Funded Customer Assistance Programs: A Guide

WINC Env. Finance Center, Navigating Legal Pathways to Rate-Funded Customer Assistance Programs: A Guide for Water and Wastewater Utilities (2017), available at https://efc.sog.unc.edu/sites/www.efc.sog.unc.edu/files/Pathways%20to%20Rate-Funded%20CAPs.pdf

³⁰ NATIONAL CONSUMER LAW CENTER, Review and Recommendations for Implementing Water and Wastewater Affordability Programs in the United States 7 (March 2014); EPA, Combined Sewer Overflows-Guidance for Financial Capability Assessment and Schedule Development, (Feb. 1997) available at www3.cpa.gov/npdes/pubs/csofc.pdf.

³¹ Flawed Analysis Muddies the Water on Water Affordability

https://www.nrdc.org/experts/ed-osann/flawed-analysis-muddies-water-water-affordability ³² Report: More than 500,000 households had water cut off. (October 24, 2018). APNews.com https://www.apnews.com/3374e977ec01412da0fbf8a023db248c

guidance to local utilities on how to ensure all people have access to water for sanitation and basic household needs at an affordable price.

Detroit, Michigan

In 2014, the Detroit Water and Sewerage Department began shutting off residential water service to customers who were behind in their bills of at least \$150, or 60 days. Over 100,000 people were affected in approximately 33,000 homes, particularly in low-income households with children, elderly persons and people with chronic illness. In late 2015, residential water shutoffs averaged 2,000 per week, while overdue commercial accounts were not affected. United Nations' rapporteurs visited Detroit in October 2014 and spoke with residents and local officials whose water bills were also transferred onto homeowner property taxes as liens. The U.N. issued a statement that if water is shut off to people unable to pay, it is a violation of basic human rights. Further, water bill debt that leads to potential homelessness, is a human rights violation too. See Appendix B-Case Study: Detroit, Michigan.

Water bills as property tax liens. When low-income families cannot pay their rising water bills, they may face serious, life-altering consequences. Cities like Detroit and Baltimore have answered residents' struggles to pay their water bills with widespread residential shutoffs. ³³ In Baltimore, where water bills are often included in the rent, failure to pay can lead to eviction. For homeowners, an unpaid water bill of only \$750 can result in a lien placed on the owner's property taxes, leading to foreclosure proceedings. ³⁴

In places like Flint and Baltimore, families are having their homes foreclosed on them because they can't pay their water bill. These houses are then condemned, leading to deserted neighborhoods and blight. The rate base of the utility continues to decrease, leading to more deferred maintenance and even higher rate increases as the utility struggles to keep operations solvent. Many of these households without running water are forced to resort to the

costly and unsustainable "fix" of using bottled water to wash, cook and clean.³⁵ Moreover, unaffordable water bills perpetuate poverty and other measures of household instability. Sadly, parents who can't pay their water bill may also lose custody of their children. Child services can remove a child from a home without running water. Now a parent must grapple with Child Protective Services and the court system to get their children back, all because they couldn't pay their water bill. Shutting off water creates a ripple effect of disastrous long-term consequences, further burdening a community's already-overwhelmed social services.

Man-made and natural disasters require urgent potable water responses. The Flint water crisis has been documented many-time over and has demonstrated the unremarkable and devastating ability of human error and financial decision-making (in the case of the

³³ In the spring of 2014 the Detroit Water and Sewerage Department's begin shutting off water to 3000 indigent families per week. E.g., Widespread Water Shut-offs in US City of Detroit Prompt Outcry from UN Rights Experts, UN NEWS CENTRE (Oct. 15, 2015), http://www.un.org/apps/news/story.asp?NewsID=48129#.ViBMn3guJJZ. Baltimore officials have sent disconnection notices to 25,000 delinquent water customers, giving them 10 days to pay overdue bills of larger than \$250, or face the loss of water service (Mar. 28,2015) http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-ci-water-bills-20150326-story.html

³⁴ Cassie Owens, "Philly City Council Helps With Water Shutoffs and Blight Prevention," NEXTCITY.ORG (June 25, 2015), https://nextcity.org/daily/entry/philadelphia-water-bills-low-income-payment-plans.

³⁵ Cynthia Boyd, *Why do poor kids drink more bottled water*? MINNPOST.COM (June 15, 2011), https://www.minnpost.com/community-sketchbook/2011/06/why-do-poor-kids-drink-more-bottled-water (last visited Dec. 15, 2017).

Governor-appointed Emergency Manager) to cause city-wide drinking water contamination. In the four years since government officials switched from the Detroit Water and Sewerage Department to the untested Flint River, nearly all residents have been affected by the health, housing and financial consequences of that decision and attempted cover-up. In actuality, the Flint water crisis began as a result of unaffordable water and sewage bills from a city unable to withstand the financial impact on municipal services. The crisis was exacerbated by criminal activity that has resulted in felony indictments and misdemeanor charges against 15 Flint, State of Michigan, MDEQ, MDHHS leadership and staff, along with a lack of state regulatory action. Flint residents still await resolve through the full replacement of the city's lead service lines while experiencing the slow process of long-term health improvements.

In Puerto Rico and Flint, deep financial crises, Wall Street bond debt, poor water infrastructure and egregious decision-making led to a series of disasters that created devastating human suffering on the island and in Michigan. Again, in both cases, the federal government was called upon to address the immediate and widespread humanitarian crises that couldn't be met by local or state/commonwealth governments. The contamination and poisoning of drinking water sources on this scale demonstrated the lack of preparation and wherewithal of state and federal emergency relief agencies to provide clean, potable water on large scales and ensure adequate sanitation for public health.

NEJAC is greatly concerned with the apparent lack of capacity of state and federal governments to provide immediate public relief for man-made and natural disasters that impact drinking water and wastewater systems. Additionally, we find increasing inequality in accessing affordable potable water and basic sanitation in low-income, indigenous, tribal and commonwealth communities, especially of color. Government authorities and private companies have not addressed water and sewerage like other utilities, such as electricity, natural gas or telephone service, leading vulnerable communities to lack access to clean, safe, affordable water and sanitation. The lack of consistent federal and state funding contributes to a growing problem of deferred maintenance, system operation problems and premature asset failure. Increasing costs for supply, operations, treatment, and maintenance are largely passed onto customers of the water or wastewater utility. While we find that residential customers are subjected to shutoffs, it appears that corporate customers are not subject to similar disconnections and may dispute their bills with utility officials, leading to rate-payer inequities and unstable utility operations over the long term. ³⁶

Recommendations. EPA can adopt several policies to help states and utilities keep water affordable, adequately address the serious problem of entire American communities denied their human right to clean, safe water and sanitation, and ensure immediate relief during disasters

• EPA should strongly condemn the practice of utilities and municipalities shutting off water to vulnerable low-income residents

³⁶ Joel Kurth, *Detroit hits residents on water shut-offs as businesses slide*,THEDETROITNEWS.COM, (Mar. 31, 2016) http://www.detroitnews.com/story/news/local/detroit-city/2016/03/31/detroit-water-shutoffs/82497496/ (last visited Dec. 15, 2017).

and encourage water utilities to implement effective customer affordability programs.

EPA should strongly encourage utilities to find ways to avoid shutting off water to homes. EPA should encourage utilities to stop service disconnection such as: use one or more ways provide emergency assistance through grant allocators; promote residential rates based on low incomes; address long-term water and wastewater infrastructure costs to residential users; and include water and wastewater in low income energy assistance grants to states. Customer assistance programs can assist people going through temporary tough times (such as a death, job loss, divorce, or even domestic violence) by subsidizing or capping water and sewer bills for lowincome homeowners and multi-family housing owners, as well as avoid shutting off water to homes and particularly to protect public health. Customer assistance programs also provide other forms of targeted assistance, such as direct installation of appliances and fixtures that save water and lower costs. Utilities and municipalities should also consider cross-agency connection, where other social service applications are also connected to the same application as water assistance (information packets on SNAP benefits, fuel assistance, etc., should include an application for water assistance). EPA should encourage water utilities, advocates, and operators to read and understand the latest report from the American Water Works Association, *Thinking* Outside the Bill: A Utility Manager's Guide to Assisting Low-Income Water Customers.

But for customers experiencing consistent water-sewage unaffordability, water utility managers, owners, elected leaders, board members, and associated municipalities should create low income-based affordability programs. Such programs support the stability of water systems and customers by reducing the burden of debt collections and inconsistent payments. Moreover, water affordability programs are based on cost-effectiveness vs. cost-benefit analyses that prioritize customer payment success with long-term system benefits. This approach is more successful than cost-benefit designs that seek to determine short-term return. The City of Philadelphia adopted its water affordability program as a cost-benefit model to reduce homeowner foreclosures from water bill liens. In the one-year since its implementation, they report measurable success in the number of enrollments, and reduction in shutoffs and foreclosures.

• EPA should encourage municipalities and utilities to adopt equitable rate structures.

EPA should encourage states and utilities to adopt equitable rate structures that raise revenue with greater equity among users. Examples include seasonal or tiered rates for water, volume-based pricing for wastewater, and stormwater charges based on the burden a customer places on the public storm sewer system. Investor-owned drinking water utilities are subject to rate regulation by state public utility or public service commissions or boards, which can use their authority to drive the use of these equitable rate structures. The majority of drinking water utilities and nearly all wastewater and stormwater utilities are not subject to rate regulation by the states. Again, EPA should encourage federal and state policies to promote and provide incentives to adopt these equitable rate structures, which allow communities to generate revenues

needed for water infrastructure investment without unduly burdening low-income households. Another option may be the "Lifeline Rate" for all low-income communities where customers pay a subsidized rate for a fixed amount of water expected to cover that customer's basic water needs. When water use exceeds the initial fixed amount of water (i.e., the lifeline block), the rate increases (known as a minimum bill, low-income rate structure, single tariff, or water budget). Any and all options should be done in consultation with local community stakeholders, especially EJ residents

• EPA should update its affordability measures based on low income affordability ratios

In line with current determinants of household affordability to pay water and sewerage costs, NEJAC recommends the EPA update its 1997 water affordability guidelines. A 233-page report by NAPA made 21 recommendations -- four of which call for improvements on the EPA's affordability calculations. We agree with the panel's recommendation for other metrics than percentage of median household income (MHI). This change can help unmask the impact of poverty rates and income distribution among many utilities and allow for flexible approaches to affordability. One such metric that may better define household affordability is the Affordability Ratio. EPA should examine this, and other metrics, to provide a clearer picture of household level affordability of both capital projects and day to day operations. The Affordability Ratio 37 is defined as:

Affordability Ratio = (Cost of Basic Water + Sewer Service) / (Household Income-Essential Costs)

Without these additional metrics, utility providers may contend that they meet MHI thresholds for affordability without truly addressing the inability of low-income customers to meet their

Success: Philadelphia Water Department



The Philadelphia Water Department implemented the Tiered Assistance Program in July 2017. A fixed-amount water affordability bill is based on household income. Residents do not need to be behind on their water bill to apply, and it is a one-size-fits-all application that covers applying for all social service relief programs. The city is collecting more revenue through this program than before, because people can afford the bill amount. Program administrators are working with community advocates to help residents apply for the program and reduce the nearly 40% of residents who are unable to pay water, sewer and storm water bills. In a further nod to their leadership on this groundbreaking path for water affordability, Philadelphia officials added their program is premised on water as a human right.

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³⁷ Measuring Water and Sewer Utility Affordability. http://mannyteodoro.com/wp-content/uploads/2017/08/MTeodoro Affordability-Method-Working-Paper-Aug2017.pdf

basic needs and pay their bills. Additionally, this approach allows for consideration of "working poor" households that may not quality for income-based assistance programs.

• EPA should urge states to require companies who bottle water in a state to contribute to help ensure all state residents have access to affordable, clean water.

In Michigan, Nestlé Waters North America and MDEQ have been publicly criticized for executing permits that allow the corporate giant to pay merely \$200 each year per plant to extract millions of gallons of Michigan water for bottling. In the past decade, Nestle' has withdrawn nearly 3.4 billion gallons of water from Michigan aquifers that was bottled and sold at huge profit.³⁷ Water legislation and environmental protections have not keep up with growing commodification and consumer demands from heavy water extractions.³⁸ In contrast tens of thousands of Detroit and Flint residents are having their drinking water turned off for unpaid bills of \$150. Michigan should not give away Michigan water to corporations who then sell it back to Michigan residents who can't afford their water bills or who don't have safe water to drink in their homes. A corporate excise tax on groundwater usage would ensure a viable source of funding for improvement projects similar to a gas tax for road improvements. An excise tax is fair, constitutional, and within the states' power to levy. States are losing out on millions of potential funding for infrastructure by allowing this kind of corporate welfare.

Goal 4: PRIORITIZE ISSUES IN ENVIRONMENTAL JUSTICE COMMUNITIES.

Water Infrastructure in the U.S. By the numbers

- ▶ 156,000 public water systems
- ➤ 700,000 miles of water and sewer piping
- ▶ 78 years median age of water systems
- ➤ 240,000 water main break per year
- ➤ 1.7 trillion gallons of water lost annually due to broken and/or leaky pipes
- ➤ 44% amount of America's water infrastructure that will be considered "poor, very poor, or life elapsed" in 15 years

Source: www.energyandcapital.com

Municipal governments, states, tribes, and federal agencies are not adequately identifying, prioritizing, or addressing water issues in environmental justice communities (see Appendix B for Case Studies). Water systems across the United States and territories range in immense complexity--from single wells directly serving a handful of families to major municipal water systems servicing millions across multiple jurisdictions.

le Water infrastructure systems are widely variable, making it nearly impossible to

³⁸ Garret Ellison, Nestle bottled water plant upgrade driving more groundwater extraction, MLIVE.COM, http://www.mlive.com/news/index.ssf/2016/10/nestle_groundwater_pumping_exp.html

craft a one-size-fits-all legislative, regulatory, or programmatic solution to even common problems. Utilities can be publicly or privately owned or operated, governed in multiple ways, be stand alone or regional entities, and can face different types of regulations depending on the size, complexity of treatment, location, and governance structure. All factors contribute to the difficulty of finding and prioritizing small, economically distressed communities.

NEJAC sees broad challenges facing communities in providing safe, clean, and affordable drinking water and wastewater collection and treatment. These can be grouped into four categories: variety, cost/complexity, stressors, and engagement. Each challenge contributes to the variety and complexity of solutions that are required to address infrastructure upgrades and replacements. Broadly speaking, the following spectrums could be used to describe water systems and the communities they serve:

Size and Economics: Larger water systems are likely to have more existing resources than smaller ones for providing safe and clean water to their community. However, larger systems also mean larger and more complex distribution systems with more opportunities for problems. Additionally, the populations served by water systems are in flux. A small community could experience rapid expansion placing demands on an undersized system, or a large community

Challenges - Population Decline

Ranger, Texas

The population of Ranger, Texas declined from its peak of approximately of 30,000 to its current 2,500. Oversized water pipelines lead to stagnant water within the infrastructure. The decline in population resulted in a huge financial burden for the utility because there are not enough residents to pay for the maintenance of the water supply.

could experience a shrinking population that reduces income from ratepayers for a system that cannot be easily downsized. Smaller or shrinking communities under financial strain are also more likely to lack sufficient properly trained staff.

- Ownership and regulation: Public and private ownership each call for different interventions/assistance which can be further complicated by individual situations such as public/private partnerships, contracts between communities for water services, or communities operating under a receivership. Communities that rely on individual private wells or hauled water present yet another set of challenges. For example, private water wells may not be able to meet testing and quality standards required of public water sources.
- Source and Setting: Water sources (groundwater, groundwater under the direct influence of surface water, springs, and surface water) present different types of challenges. Each is at risk for different kinds of external contaminants and requires different safeguarding resources. Urban, suburban, rural, and water systems on tribal lands can vary greatly from one another in terms of the physical infrastructure, difficulty/cost of maintenance, and organizational structures governing their operation. For example, working with a small-town

board to make changes to water system operations may be quite different than dealing with a major metropolitan water authority.

Recommendations.

• EPA should filter its current data and tools through an environmental justice lens to identify water issues in environmental justice communities.

EPA needs to help environmental justice communities proactively address the looming public health crisis of neighborhoods without clean water and sanitation. Problems are more likely to be fixed when they are visible and quantified. EPA should use and interpret already-available data to focus efforts on environmental justice communities. EPA conducts several surveys and studies about water infrastructure and low-income customer assistance programs including the *Drinking Water Infrastructure Needs Survey and Assessment*, ³⁹ the *Clean Watersheds Needs Survey*, and the *Drinking Water and Wastewater Utility Customer Assistance Programs Report*. EPA should analyze where the information gaps are in its voluntary surveys, and work with the Regional Offices to fill those gaps. EPA should also direct the Regional Offices to survey and take specific note of low-income households (pockets of poverty) within communities that are not economically distressed. The methodology for voluntary surveys should be specifically focused on mapping needs for environmental justice communities, as well as separated to show urban vs. rural vs. suburban locations. The needs of these types of systems can be quite different. Expanding a review into these categories can offer the EPA insights into additional differences and concerns

• EPA should encourage municipalities and other water utilities to use the Health Impact Assessment Framework.

To help plan and inform priorities for funding as well as to provide decision-making guidance to optimize potential health benefits of proposed water infrastructure projects or policies, EPA should direct municipalities and other water utilities to utilize the Health Impact Assessment approach. A Health Impact Assessment comprehensively reviews any project from the point of view of human health. Optimal results are yielded from this approach when it is conducted as a decision-making tool before a project or policy is implemented. EPA has a Health Impact Assessment Resource and Tool Compilation website. ⁴⁰ This tool should be widely disseminated to municipal planners by Regional Offices. Communities should categorize the scope, assessment, recommendations, reporting, evaluation and monitoring to focus the lens of infrastructure projects on human health, not just economic considerations. This framework can be used effectively as a method of data generation, to help assess how a proposed project or

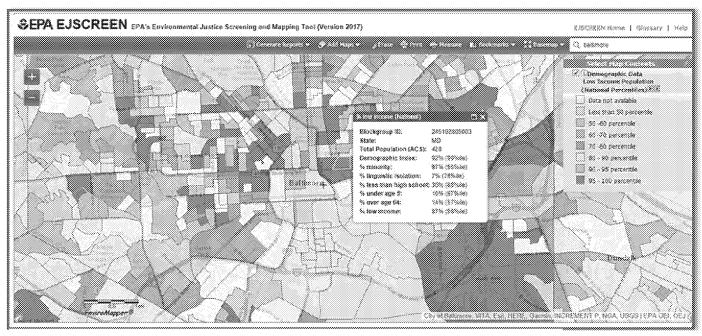
³⁹ *Drinking Water Infrastructure Needs Survey and Assessment*, Fifth Report to Congress, April 2013, https://www.epa.gov/sites/production/files/2015-07/documents/epa816r13006.pdf

⁴⁰ https://www.epa.gov/healthresearch/health-impact-assessment-hia-resource-and-tool-compilation.

policy will affect the health of a population, to determine whether or not vulnerable populations are more likely to be impacted, as well as provide meaningful input for grants and other funding applications.

• EPA should include drinking water issues in EJSCREEN.

EPA's online tool EJSCREEN does not include data on drinking water. Adding this information to EJSCREEN would help educate and engage the public at large about water quality issues.



Screenshot of EPA's online EJ mapping tool, EJSCREEN. https://www.epa.gov/ejscreen

Goal 5: INVOLVE ENVIRONMENTAL JUSTICE COMMUNITIES MEANINGFULLY IN INFRASTRUCTURE DECISIONS.

Municipalities and governmental agencies, as well as other types of water utilities, often struggle to meaningfully engage neglected and disadvantaged communities on wastewater and drinking water issues. These communities are deeply distrustful of water system operators and decision makers because the state and federal government often fail to enforce laws requiring clean water in their communities, along with the governments' repeated failures to meaningfully involve these communities in decisions that greatly affect their day-to-day lives.

High rates of personnel turn-overs in federal and state agencies stymy community engagement and result in many managerial and operational inconsistencies. This negatively affects the ability of the community to meaningfully contribute to an infrastructure project. Communities that work with state entities overseeing water systems seeking water project funding often see the requirements repeatedly change due to new staff at the agencies, or new criteria. These personnel

changes then require the community to engage in completely different approaches to secure funding or comply with requirements. A community cannot meaningfully contribute to solving its problems if it does not have the right information, or lacks the ability to process and use that information in an effective way.

Recommendations. By supporting local community initiatives led and developed by local community leaders, EPA can help municipalities and other types of water utilities meaningfully engage communities. This includes developing a process of reviewing and considering the results of community-driven citizen science⁴¹ monitoring data in water and wastewater infrastructure decision-making.

• EPA should facilitate local and regional partnerships as a strategy of meaningfully engaging with the community.

NEJAC has examined several examples of efforts to meaningfully engage EJ communities, reflecting a broad spectrum of community types: large and small, urban and rural, including an array of different demographic and economic characteristics. Consistent themes for success are:

- Deliberate, consistent community engagement;
- Transparency in decision-making;
- Dpen back-and-forth communications; and
- Collaboration between planners, agency regulators, and the community.

Developing an approach to respect and foster these collaborative themes is the key to successful, meaningful community involvement. All four of these elements must be present in any community engagement initiative. Using these themes builds trust and respect between stakeholders, encourages mutual gain, and creates strong partnerships for future productive problem-solving processes.

The above paradigm focuses on community involvement in *both* the planning and decision-making process, not just when the project needs voter approval. EJ communities often do not feel empowered to engage, because few planners take the time to really listen and understand their unique concerns before imposing solutions. When government officials and planners come into the community, the residents' reaction is often, "What are they going to do to me now?" Persistent distrust of government and regulatory agencies will derail any community engagement project. Engaging with the community early during the planning stage will allow community members to participate, not just spectate. It will also require planners to translate complicated technical information into a layperson's language, and engage in more organization and community outreach with advocacy groups and local government support. (*See* Appendix B, Case Study: San Diego for an example of a very successful community engagement campaign).

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⁴¹ Citation for term, citizen science: https://www.epa.gov/citizen-science

Success: Federal Water Infrastructure Project Results from Church Rock Navajo Declaring Rights to Clean Water for Drinking and Irrigation

Church Rock, Navajo

Access to safe, clean drinking water across the reservation is one of the most difficult problems to manage. For many years, Indigenous residents in the Navajo communities of Red Water Pond worked uranium mines on the hillsides of the reservation before much was known – or reported – about how dangerous and deadly uranium extraction is to people and the surrounding environment. Navajo and Jicarilla Apache reservations and the City of Gallop have experienced inadequate and long-term problems with water supplies for people living off the San Juan River. In 2017, a federal infrastructure project was announced for Navajo-Gallop to increase the supply of clean drinking water. Many new pipelines, pumping stations and storage tanks are being built and the project is scheduled for completion in March 2020.

These partnerships can and should include water and wastewater utility associations, colleges and universities, and research institutions. Strategies to involve these groups include:

- Organizing a panel presentation or a series of short workshops at water and wastewater
 conferences to explain the need for and benefits of local partnerships and highlighting
 places where partnerships have been successful. Industry conferences like the Virginia
 Water Environment Association's "Water Jam," provide a unique opportunity to speak to
 hundreds of water and waste water utility professionals and their associations.
- Often colleges and universities are already connecting with local communities, often on a pro bono basis, to provide water quality testing, research, and expert testimony. In places where communities lack access to such resources within the community, EPA could help connect colleges and universities to communities in need. For example, the environmental law clinic at Duke University is assisting the community in Lowndes County, Alabama with legal and policy needs related to their sewage issues, while also inviting engineering students to visit to help solve the problem. EPA could sponsor EJ Hackathons, bringing together engineers, scientists, and innovators together along with impacted communities to connect the communities with services and to pursue creative solutions. EPA could also maintain a website with a list of research needs from impacted communities.
- EPA and the States can act as directors to harness much energy and knowledge towards promoting safe, clean water and solve problems. Specifically, EPA and the States can promote silo breaking by:
 - Convening and working with external entities as convener, and creating platforms for discussions. Communities need to have a voice and advocacy.

- o Identifying common goals; what's the benefit to all parties involved including federal, state, and local entities.
- Developing a practical roadmap that outlines preliminary recommendations and priorities. Communities need to be able to understand the pathways to gaining technical assistance, funding, and agency support.
- Promoting the use of college and Universities venues for hosting meetings and trainings.
- Identifying educational, social and scientific research needs (and potential funding sources) to colleges and universities.
- o Providing service learning opportunities (e.g. class projects and internships) for college and university students.
- o Co-develop policies that best support water infrastructure.
- EPA and local water authorities should change their public input processes to meaningfully involve impacted communities.

Often federal, state and local government agencies develop a public input process because it is required (by law or policy). They create the process and then ask, "How do I get people to come to my meetings?" When there is low public turnout in the process, often the conclusion is "no one cares about the issue." Instead, EPA should take the lead to fundamentally change how public processes are developed to ensure that public input, especially from impacted communities, is central to how the public process is developed. Further, the public process must provide an opportunity for participants to shape the outcome in order to make it worthwhile to participate. Where a state agency has a public outreach process that does not meaningfully involve impacted communities, EPA should teach the state agency how to improve its processes.

Regional EJ and Capacity Development Coordinators can work with municipal planners to meet with residents at a church, coffee shop or local community facility, and ask community members to talk about their concerns, answer questions and get feedback. This outward-facing approach will help planning officials and EPA obtain useful, actionable input from communities that face government neglect and discrimination. This can also minimize resistance and achieve broader acceptance of capacity-building efforts in historically neglected communities.

b EPA should encourage Regional Offices to make frequent and personal contact within EJ communities.

Increased contact with vulnerable communities can serve several goals.

Identify and prioritize funding needs: By increasing outreach in communities that are extremely isolated, have very low-income base, have historic environmental justice issues, or are considered "orphan systems." An orphan system is one in which there is no identifiable operator of record or owner. Someone may be taking care of the system so water is running, but they are not legally responsible. Increased contact with vulnerable communities can help EPA and the

states better identify and prioritize needs for state revolving funds or other funding support. EPA could ask each Region to estimate the number of orphaned systems and the locations, if known, of these systems, as well as the population served. Identifying the scope of this problem will orient EPA and the states regarding what potential solutions may exist to help address these types of systems. This data can then be integrated into EJSCREEN to help states prioritize infrastructure funding.

Build partnerships for technical support. Repeatedly and consistently engaging vulnerable EJ communities and contacting water associations to encourage sharing information with city and county officials can foster necessary technical relationships and support for healthy infrastructure. Federal and state agency staff should make frequent on-site visits to communities with inadequate water and wastewater facilities. The purpose of such visits would not be to inspect or regulate, but rather to answer questions, promote funding programs, and, most importantly, to observe how systems are run and where the potential for problems lie.

Better serve Tribes. EPA's Office of Water should collaborate with each of the EPA tribal coordinators as well as Indian Health Service to determine which tribal water systems face the greatest needs in terms of water infrastructure, including funding sources, and public health compliance and infrastructure decay. EPA should work with each state enforcement agency to identify the number of communities who are facing serious infrastructure or compliance issues (including deterioration, neglect, contamination) that are in close proximity to, or within the service area of, a larger compliant and more efficient utility. EPA could explore ways to incentivize the larger utility to support the struggling systems.

• EPA and states should provide education grants for technical associations to educate local residents and utilities about drinking water and wastewater infrastructure solutions.

Technical associations are well-positioned to educate communities about infrastructure problems and solutions. Options to fund this program include directing more grants from the Environmental Education unit, establishing a new education initiative through the Office of Water modeled off the Urban Waters Program, and directing other entities to provide funding opportunities in rural communities (such as the US Department of Agriculture).

• To best encourage and support partnerships, EPA should serve as a helpful resource, reaching out to offer support and providing information.

EPA has an important role in a partnership effort, but it is not to prescribe outcomes, set expectations, or establish terms and conditions. EPA should refrain from leading, or otherwise directly initiating, collaborations at the local level. Instead, EPA should facilitate and serve as

subject matter experts on the technical, managerial, and financial aspects relevant to the specific project. Communities should plan and lead their own efforts, with EPA helping to provide information, training, and access to funding. NEJAC also recommends that EPA should be available to advise state and regional partners on how to proceed on any infrastructure build-out, renovation, or significant policy change affecting water. The agency should also bring utilities within a regional area together and provide the platform to network and collectively identify solutions. (*See* Appendix B--Case Study: Sandbranch, Texas, for a successful EPA/Regional Partnership).

Goal 6: BUILD COMMUNITY CAPACITY

Currently, many communities find it difficult to interface with EPA and state agencies because they lack the capacity to engage, plan and execute infrastructure projects. EPA often attempts to communicate with communities via unfamiliar, overly-technical language. People do not want to participate in discussions about confusing, overwhelming topics where they have no power to affect change. Communities are frustrated when agencies offer solutions that do not work, or quickly fail because they are not tailored to the needs and available capacity of the community to implement. For instance, offering a funding application is useless if a community doesn't have the right expert to fill out the application correctly. People feel ignored and potentially insulted when agency personnel are inconsistently engaged, such as coming in during or after a crisis, then leaving once the media attention has died down but before the problems are adequately addressed.

Recommendations.

• EPA should encourage water utilities to use best practices by offering trainings and supporting existing successful training programs like the Water Boards Leadership Institute.

EPA should stress to water utilities the benefits of technical, managerial and financial best practices for the development of all new water infrastructure projects. The Water Boards Leadership Institute by Rural Community Assistance Corporation is one example of best practices in building community leadership for clean water. *See* Appendix A. EPA should also encourage groups to document and share Best Practices that worked in their community with other water operators and managers, municipalities, and other types of local governments, to replicate success in similar environments. Partnerships with non-profits, water associations, and universities, as well as encouraging attendance at water industry conferences, can help local governments and utility operators learn best practices. A Best Practice is:

- Relevant: In line with the context and meets target groups' real needs;
- Replicable: Cost is reasonable within the context and documented, educational material and expertise are available to replicate it;

- Innovative: Offers a certain degree of innovation, either because it "created" new approaches, or because it applies what is planned in policies or strategies not often applied or not applied at all;
- Sustainable: The results achieved remain after the action is completed, and a mechanism is in place so that results can further be replicated.
- **©** EPA should encourage communities to share Lessons Learned.

After a water infrastructure project is completed, documentation and analysis of the process of implementation is vital for long-term success. EPA should encourage a thorough documented review of project implementation by all stakeholders in order to determine what worked and what did not, and to refine Best Practices.

• EPA should consider supporting partnerships where efficiently run water utilities acquire failing systems.

Where a water utility system is failing, it may benefit by partnership with or acquisition by a "Good Samaritan" system. In this way, communities may benefit from water utility partnerships. However, partnerships with successful systems or bringing in an outside company to run a municipal sewage system can be fraught with problems. While a municipal water or waste water system is run for a public benefit, a corporate-run system is driven to maximize profits. Many communities faced with their municipal systems turning over operations to private companies have expressed concerns.

• EPA should help EJ communities secure funding to support capacity building and to ensure water infrastructure projects are viable in the long term.

Almost all capacity issues can be either addressed or improved with increased funding. EPA should follow the recommendations listed in Goal 2 above to help struggling communities access more funding to build local capacity to provide clean drinking water and sanitation.

EPA should encourage Regional Offices to facilitate partnerships.

EPA alone will not be able to assist all underserved communities in addressing their drinking water and sanitation issues. EPA should follow the recommendations listed in Goal 5 above to foster partnerships as a way to build local capacity.

• EPA should design and implement EJ training modules to bring together stakeholders.

EPA should require Regional Administrators to hold *annual* regional community engagement trainings with each Regional Office's EJ coordinator, state EJ coordinator, local water utility owners and operators, citizen advocates, municipal planners, and public health professionals. Support regional partnerships with paid professionals to address problems of unstaffed water systems. One solution could be to contract work with retired public water system employees through virtual training.

♦ EPA should facilitate EJ communities to engage in more effective emergency response planning for water.

EPA should encourage communities to develop contingency plans for large-scale water contamination, including alternative potable water sources. EPA should coordinate with the Federal Emergency Management Agency to help communities prepare for water crises after a natural or manmade disaster. EPA should distribute *Planning for an Emergency Drinking Water Supply*⁴² to municipalities, planning boards, other local governments, and utilities. EPA should coordinate with FEMA to help provide contaminated water crisis alternatives besides bottled water, and in larger quantities to meet emergency needs. Communities struggle with contaminated tap water often turn to bottled water, which is expensive and negatively impacts the environment. Millions of disposable water bottles leftover in Flint during and after the water crisis demonstrate the need for available federal potable water resources and training to meet large-scale drinking water needs of residents. It is impractical, inefficient and costly to provide and rely for extended periods of time upon bottled water for daily needs. Potable tanker trucks with pipe and spigot apparatuses, centrally located within the community, are one alternative to bottled water.

EPA should design and implement effective quarterly outreach trainings for all Regions' EJ and Capacity Development Coordinators.

EJ and Capacity Development coordinators within each Region are vital for capacity building success, but not all coordinators have the same level of training or commitment. EPA should implement targeted, frequent training (at least one training every three months) to show the agency's commitment to community engagement, as well as ensure all agency personnel understand how to effectively—and consistently—engage communities. EPA should instruct Coordinators to reach out and act as facilitators of projects, not as leaders. Community members should be the leaders of these initiatives. Written materials about the importance of community involvement in all aspects of decisions around public water infrastructure should make specific

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⁴² Planning for an Emergency Drinking Water Supply. (June 2011) EPA Office of Research and Development. National Homeland Security Research Center. https://www.epa.gov/sites/production/files/2015-03/documents/planning_for_an_emergency_drinking_water_supply.pdf

⁴³ http://www.bottlemania.net/index.html

reference to the "meaningful involvement" portion of EPA's definition of Environmental Justice. EPA should take advantage of the agency personnel who are experts in their field by fostering mentorship between senior and junior staff. Senior EJ and Capacity Development Coordinators should lead frequent and consistent outreach training for all Coordinator staff. Training should focus on these subjects:

- Establishing Equal Partnerships. Coordinators must emphasize the two-way flow of information, leadership, decision-making, and benefits. The most important characteristic of EPA-community partnerships is that information and feedback should flow in both directions. This approach to partnerships can prevent communities from feeling victimized, patronized or steam-rolled.
- Building Trust by Focusing on Community Input. Coordinators must listen directly to people who will be impacted by an agency decision, before that decision is made. Active listening builds trust and fosters more productive collaboration. Give communities a chance to tell their stories.
- Leading Citizen Training Programs. Coordinators should provide accessible technical trainings and resources so that citizens can understand the basic science behind their water systems, as well as the regulatory agencies' processes and responsibilities. Programs should focus on water contamination awareness, risks and prevention, as well as how to navigate state and federal bureaucracy when action is needed. Templates for communities to initiate these programs should be made available on EPA's Water Infrastructure and Resiliency Finance Center website.
- Supporting Healthy Volunteer Culture. Coordinators should promote thorough training and support for community volunteers, defend against burnout, and help groups avoid overburdening citizens. Volunteers are not trained professionals and should not be tasked with handling infrastructure failure. They are, however, vital for education and outreach efforts. Help groups create realistic goals and pathways to achieve success.
- Making Initial Direct Contact. Coordinators should meet citizens in open, accessible spaces like coffee shops, town halls, and libraries. EPA should provide translation services, if necessary. The primary purposes of initial meetings are to listen and empathize, not to regulate or inspect. EPA should use various social media platforms to promote meetings and engagement, but not as a replacement for face-to-face contact.
- Incentivizing Widespread Participation. Coordinators should find unique, culturally-specific ways to increase the number of community members who recognize themselves as stakeholders. They should reach out to existing organizations and networks, such as faith-based groups, grade schools, institutions of higher learning, nonprofits, advocacy groups, and local businesses. Consider appropriating funding in the

form of small community grants to help communities to set up institutions to facilitate participation and technical understanding about water use and infrastructure, such as neighborhood planning boards, citizen water councils, and citizen scientist programs. Work to build partnerships with professional organizations to provide technical assistance (appropriate examples include the Water Environment Federation, Air and Waste Management Association, American Public Health Association, National Environmental Health Association, American Planning Association, American Water Works Association, and American Society of Civil Engineers).

- Responding Before and After a Water Emergency. Local Regional Offices can help communities respond to a crisis. EPA should instruct Regional Office staff to coordinate with the Federal Emergency Management Agency and local and state governments after a disaster, when water hazards are imminent and life-threatening, as well as after the initial threat has been managed.
- EPA should direct the Regional Offices to conduct an aggressive campaign of *significant*, *sustained outreach* by each Region's EJ coordinator to local municipal governments about water infrastructure.

EPA regions should ensure that EJ coordinators have the resources they need to meet and work regularly alongside environmental injustice communities. Regional directors should encourage local governments to promote the community's active participation in water and sewerage infrastructure decision-making processes, and ensure equitable representation within local decision-making entities.

• EPA should update and expand its web-based engagement tools to consider and incorporate environmental justice issues.

EPA current web tools are not designed to consider environmental justice issues or to engage vulnerable communities. EPA's Water Finance Clearinghouse online database currently has an "affordability" filter in its Special Topics section of its Resources database. This existing resource could be redesigned to contain more helpful information about the connection between EJ communities and their unique water infrastructure needs. The Clearinghouse can be expanded to include an EJ community database as a Special Topic filter in its Resources Section. The Clearinghouse can link to outside community roadmaps so that people know what their options are when they face situations such as water shut-offs, sewage failures and other crises. This would empower citizens to reach

Contamination Nationwide

In 2013, EPA commissioned a study to sample fifty large wastewater treatment plants nationwide and discovered at least "twenty-five different active pharmaceutical ingredients in the waste stream, including pain-relief medicines like oxycodone, blood thinners like warfarin, high blood pressure medication and beta blockers like hydrochlorothiazide, atenolol and metoprolol, and over-the-counter drugs like Tylenol and ibuprofen."

M.S. Kostich et al., Concentrations of Prioritized Pharmaceuticals in Effluents from 50 Large Wastewater Treatment Plants in the U.S. and Implications for Risk Estimation, 184 Env. Pollution 354 (2014)

out when they need help by eliminating barriers to connecting with the appropriate agency officials, giving citizens clear information about how their options and the consequences of each, and creating agency accountability. The Clearinghouse should provide translated copies of each resource or an accompanying supplement to each document to guide readers who are newer to the English language, or solicit bilingual users to create and add these materials.

The Clearinghouse can also consolidate funding applications for EPA assistance. The various sources of funding and applications should coordinate to eliminate duplicate information. The applications should be organized in a cohesive manner, reflected in the community roadmap, and rewritten to be as clear as possible. Along with each application should be a timeline for each subsequent processing step, and a rolling list of funding applicants so that people can see where they stand in line to receive funds. The Clearinghouse can serve as a resource to foster partnerships, such as lists of types of partnerships and definitions of each party's roles and contributions to the partnership. Removing the uncertainty of who should handle which task, who has what information, and who is the contact person for which third party decreases the risk of communication falling through the cracks and people losing momentum, or failing to followthrough with someone asking for help. In the long term, EPA can also facilitate a community water infrastructure mapping project, linked to the Clearinghouse. These databases can be shared with EPA's EJSCREEN tool to provide a way for EJ communities to interface with their water systems. EPA also has C-FERST (Community-Focused Exposure and Risk Screening Tool), an environmental and public health online mapping tool. C-FERST and EJSCREEN should be integrated to allow for more comprehensive community mapping with an emphasis on environmental justice and water infrastructure.

• EPA should assist communities in providing job training opportunities to ensure communities have access to qualified professionals to operate and maintain water systems.

Many communities are facing an imminent work force shortage as one-third of utility operators across the country are eligible for retirement. To ensure that communities have qualified professionals to operate and maintain their water systems, EPA should support job training opportunities, especially in environmental justice communities. Intentionally expanding opportunities for more diverse populations to enter the water workforce, will move the water industry toward being more reflective of the communities it serves. The U.S. Water Alliance's Report, "An Equitable Water Future," includes many examples of how to develop a workforce that can better serve our communities. Recommendations include:

- Build a water career pipeline for youths and adults;
- Use pro-active, inclusive hiring requirements for construction and non-construction careers; and
- Align workforce training programs with employer needs at a regional level.

Goal 7: SUPPORT TECHNOLOGICAL INNOVATION.

Drinking water supplies are being contaminated by regulated and unregulated pollution from industrial and waste sources, including landfill leachate, hazardous waste, industrial process water, fracking, leaking storage tanks, and human waste. ⁴⁶ Many industrial chemicals are unregulated, meaning there are no standards set for what level of exposure is safe, nor or utilities

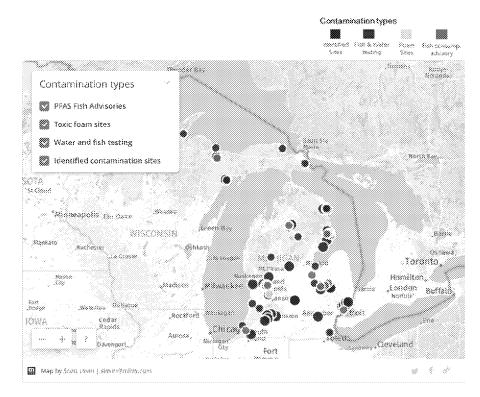
⁴⁴ "National Economic & Labor Impacts of the Water Utility Sector: Executive Report" Water Research Foundation and Water Environment Research Foundation, September 2014, http://www.waterrf.org/publicreportlibrary/4566a.pdf.

⁴⁵ U.S. Water Alliance, "An Equitable Water Future," June 2017

⁴⁶ KD Beer, et. al., Surveillance for waterborne disease outbreaks associated with drinking water — United States, 2011–2012. MMWR Morb Mortal Wkly Rep. 2015; 64(31):842-848. https://www.cdc.gov/healthywater/surveillance/pdf/mm6431.pdf

required to test for them in our drinking water. Pharmaceuticals ingested by people or livestock and then returned to our waters through our sewage systems or runoff end up in rivers and lakes, ground water resources,

and soils. 47 The U.S. Geological Survey conducted a comprehensive stream study nearly two decades ago throughout the United States and found at least one of ninety-five organic wastewater contaminants, such as "antibiotics, other prescription drugs, nonprescription drugs, steroids, [and] reproductive hormones," in eighty percent of stream samples.48



Perfluorinated chemicals, or "PFCs" are unregulated at the federal level, even though they cause cancer and other illnesses. ⁴⁹ PFCs, like PFOA (Perfluorooctanoic acid, also known as C8) and PFOS (Perfluorooctanesulfonic acid) make carpeting, upholstery, and clothing stain- and water-resistant, make cookware "non-stick." PFCs are stable in the environment and do not biodegrade. PFCs bio-accumulate up the food chain, and will remain the human body for years after exposure resulting in increased risk for cancer, liver damage and other serious health ailments

Methyl tertiary butyl ether (MBTE, a gasoline additive) has been detected in groundwater (including drinking water sources) throughout the country, yet federal health-based regulatory enforcement standards do not exist. ⁵⁰ Most recently in Michigan, these 'zombie chemicals' as they're called by residents in Oscoda who experience the invisible PFC substances that slowly affect them, have caused great alarm.

⁴⁷ Gabriel Eckstein, *Drugs On Tap: Managing Pharmaceuticals In Our Nation's Waters*, 23 N.Y.U. Env. L.J. 37, 42 (2015).

⁴⁸ Dana W. Kolpin et al., *Pharmaceuticals, Hormones, and Other Organic Wastewater Contaminants in U.S. Streams*, 1999-2000; A National Reconnaissance, 35 Envtl. Sci. & Tech. 1202, 1203 (2002).

⁴⁹ National Institute of Environmental Health Sciences, *Perfluorinated Chemicals*,

⁽PFCs)https://www.niehs.nih.gov/health/materials/perflourinated_chemicals_508.pdf.

⁵⁰ EPA Archive, Methyl Tertiary Butyl Ether; https://archive.epa.gov/mtbe/web/html/water.html; 2012 Edition of the Drinking Water Standards and Health Advisories;

https://www.epa.gov/sites/production/files/2015-09/documents/dwstandards2012.pdf.

There are more than 30 sites in 15 communities across Michigan with confirmed contamination of soil, groundwater or surface water. PFC contamination in two Kalamazoo counties in July 2018 called for more than 3,100 residents to stop drinking and cooking with municipal water when the chemicals were discovered at 20 times the federal health advisory limit.

Recommendations.

EPA should establish a Household Action Level for lead and copper in drinking water, and support innovative local and state efforts for lead exposure prevention and lead service line replacement.

We agree with and support the EPA's National Drinking Water Advisory Council's 2015 recommendation calling for the establishment of a household action level for consumers. ⁵¹ This would trigger a system of notifications to consumers when levels greater than 0.015mg/L of lead and 1.3mg/L of copper (the maximum contaminant level rule for public water systems) are detected in tap water. Without a household action level, individual households with high lead levels may be missed because the system as a whole is in compliance. Consumers may be confused and not understand that children and vulnerable people, especially in low income and communities of color, are at risk of lead contamination.

In June 2018, the Governor of Michigan established the strictest lead and copper rule in the U.S. It requires the removal of approximately 450,000 lead service lines in the state by 2040 at a rate of 5% annually. The new rule also calls for a reduction in the Action Level of lead from 15ppb to 12ppb by 2025, and bans partial lead service lines (except for emergency repairs). The executive order also creates a statewide drinking water advisory council as well as local advisory councils to engage the public in water system decision-making.

EPA should promote the Michigan plan and contact every state's funding agency to determine what programs are being used to address lead pipes, and share program effectiveness throughout each Region. Lead vulnerable communities include Sebring, OH, Buffalo, NY, Chicago, IL, Springfield, MA, Philadelphia, PA, and Lewiston, ME. ⁵² In addition, EPA should identify creative public and private sector solutions for the replacement of lead pipes due to the implementation of a household action level, including recycling and repurposing. While there may be programs offering low interest rate loans, many homeowners in EJ communities cannot afford any loan at all. EPA can offer grant programs developed and offered for this type of customer.

⁵¹ EPA, *National Drinking Water Advisory Council Letter of Recommendations to EPA Administrator*. (Dec. 15, 2015) https://www.epa.gov/sites/production/files/2016-01/documents/ndwacrecommtoadmin121515.pdf ⁵² *At least 33 US cities used water testing 'cheats' over lead concerns*, THE GUARDIAN. (June 2, 2016), https://www.theguardian.com/environment/2016/jun/02/lead-water-testing-cheats-chicago-boston-philadelphia

Until the lead and copper rules are updated, we believe there are educational opportunities that can help to reduce the risk within individual households.⁵³ In particular, EPA should focus education and outreach efforts on schools and day care facilities that may have potential lead exposure within their drinking water systems.

EPA should develop legally-enforceable limits to protect people from PFOA and PFOS exposure.

EPA has established health advisory levels for PFOA and PFOS at 70 parts per trillion. EPA's health advisories are non-enforceable and non-regulatory and provide technical information to states agencies and other public health officials on health effects, analytical methodologies, and treatment technologies associated with drinking water contamination. This means that the health advisories fail to protect communities from harmful exposure. After residents in North Bennington were poisoned by PFOA exposure, Vermont set a permanent drinking water standard for PFOA and PFOS at 20 parts per trillion. To best protect people from PFOA and PFOS exposure, EPA should set a maximum contaminant level of 20 parts per trillion for PFOA and PFOS in drinking water.

• EPA should address threats from agricultural runoff pollution.

Agricultural runoff and waste products such as nitrates from fertilizers, pesticides, or animal waste can directly contaminate source water with chemicals and pathogens. These can also promote algae blooms of surface waters. Groundwater is no safer as increasing levels of agrobusiness waste products are being found in groundwater as well as surface water sources. ⁵⁴ A first step would be to require concentrated animal feeding operations to monitor pharmaceuticals in its discharges.

EPA should support potable reuse projects that use advanced tertiary treatment like UV and membrane filtration to address contaminants of emerging concern.

Many toxic, unregulated contaminants in our water could be virtually eliminated through use of advanced tertiary treatment like ultraviolet light and reverse osmosis membrane filtration. Projects in California (Orange County and San Diego) demonstrate that advanced tertiary treatment can treat wastewater to better than drinking water standards, while also eliminating toxics, pharmaceuticals, and pathogens. EPA should work with stakeholders to provide a

⁵³ The EPA has a document titled, "Lead and Copper Rule: Public Education & Other Public Information Requirements for Community Water Systems" that can be used to educate individuals on ways to reduce household risks associated with drinking water.

⁵⁴ The Politics of Drinking Water. https://www.theatlantic.com/technology/archive/2014/12/the-politics-of-drinking-water/384081/

regulatory pathway to encouraging new technologies to super-treat wastewater, addressing water quality and water supply concerns.

EPA should award innovation grants to utilities in EJ communities with limited capacity.

EPA should target utilities communities with high income inequality and large numbers of low-income households for financial grants targeted towards water usage and preventing contamination. Innovation grants drive public and private sector innovation in resource conservation, and have been successfully employed by other government agencies such as the National Resource Conservation Service, under authorization from the Farm Bill. ⁵⁵

• EPA should target low-income homeowners and rental communities for water saving devices.

EPA should award local grants to community-wide efforts that incentivize solving wasteful use and inefficient practices. These grants should be provided to homeowners, landlords, and apartment managers to implement water saving devices. The renter would be able to enjoy a lower utility bill and the landlord would have an increasingly marketable apartment.



Utilities can also subsidize water efficiency measures by providing limited financial assistance for leak repairs, and offering rebates for WaterSense-certified fixtures, toilets, and appliances. Examples of technological solutions include: composting toilets, greywater systems, and lowflow shower heads and toilets. Use of these fixtures can alleviate the challenges associated with high water tables and poorly-drained soils, by limiting the demands that the septic places on the leach fields. In many areas, utilities already offer rebates and vouchers that can lower the price of these water-saving devices. We should be rewarding everyone, including utilities, for using less water.

• EPA should help communities expand wastewater treatment and reuse by offering financial assistance for reuse technology.

Wastewater can be a valuable resource in places where the population is growing, and water supplies are limited. In addition to easing the strain on limited fresh water supplies, the reuse of wastewater can improve the quality of streams and lakes in EJ communities by reducing the effluent discharges they receive. Wastewater may be reclaimed and reused for landscape irrigation, groundwater recharge, or recreational purposes. See APPENDIX B--Case Study: San

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⁵⁵ On June 8, 2017, the NRCS announced that the agency will award more than \$22.6 million to 33 projects nationwide through its Conservation Innovation Grant (CIG) program in 2017. The 2017 CIG awards bring the total NRCS investment to nearly \$286.7 million for 711 projects since 2004. https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/cig/

Diego for an excellent example of a city-wide water reuse campaign, supported and endorsed by EPA.

Goal 8: EPA WILL BE ACCOUNTABLE AND REBUILD PUBLIC CONFIDENCE AND TRUST.

As a result of historic governmental neglect and lack of accountability for failing to adhere to EPA's statutory mandate of protecting human health and the environment, EJ communities, especially, feel victimized and then subsequently ignored by the EPA. This neglect erodes any trust communities may have had in EPA's ability to help them solve water infrastructure problems. No trust means communities will not approach EPA for help. EPA has an incredible wealth of technical and managerial knowledge to offer communities suffering from water infrastructure challenges. Communities cannot possibly hope to solve these challenges without EPA's, expertise, guidance and statutory authority.

But EPA has not been responsive enough. The widespread lead poisoning in Flint, Michigan should never have happened (See APPENDIX B—Case Study: Flint, Michigan). The people of Flint sounded the alarm to state agencies about lead in their water in June of 2014, but no one listened. Government officials declared a state of emergency over a year later in October of 2015, after hundreds of people were continuously exposed to lead *for months*. Former EPA Administrator Gina McCarthy admitted in her testimony before Congress that EPA failed to intervene soon enough in Flint, before the lead contamination spiraled out of control. ⁵⁶ A public crisis occurred on EPA's watch, and EPA's failure to act quickly only reinforced EJ communities' deep distrust of federal, state, and local government agencies. Likewise, the pervasive water shutoffs in Detroit, Michigan and Baltimore, Maryland created a public health crisis, and denied these communities their right to clean, safe water and sanitation.

EPA has the power to step in sooner. When the agency hesitates to take action in the face of serious public health concerns, EJ communities rightfully feel as though no one cares. Rebuilding trust will require a concerted, focused effort on listening to community members, engaging with community members, and acting before a problem becomes a catastrophe.

Recommendations. To be accountable to EJ communities, EPA needs to be willing to engage, be responsive to EJ communities' needs, and follow through with enforcement.

b EPA should listen and quickly respond to communities when they speak out about contamination concerns.

⁵⁶ Hearing before the committee on oversight and government reform, H.R. 114-142 (March 17, 2016) https://www.gpo.gov/fdsvs/pkg/CHRG-114hhrg25714/pdf/CHRG-114hhrg25714.pdf.

EPA needs to be more responsive to communities when they ask for help about environmental issues. EPA should instruct each Regional Administrator to examine, improve, streamline, and document the quick responses to community concerns within each Region. EPA has the structural capacity to meaningfully engage with community's concerns, as there are EJ and Capacity Development Coordinators in every region. When people do not feel heard, they have no reason to support public officials' work. But as EPA's work in Sandbranch, Texas shows (see APPENDIX B--Case Study: Sandbranch, Texas), when EPA chooses to step in and respond to community concerns, outcomes can be positive. EPA should ensure that all personnel working with EJ communities are well-trained in community organizing and engagement, and are focused on listening to community concerns. EJ and Capacity Development Coordinators can take the initiative to push forward planning for water infrastructure projects, facilitate positive community/government interaction, and change how neglected communities see the agency.

• EPA should enforce regulatory compliance within EJ communities.

One of the best ways for EPA to regain trust in EJ communities is to act quickly when public safety is at risk. EPA should use its regulatory and oversight ability to intervene sooner and more forcefully on state and local compliance and execution problems. For EPA to fulfill its statutory mandate to protect people and the environment, it is important for EPA to enforce compliance without prioritizing potential political backlash from corporations or powerful interest groups. EPA should consider the public health of the water and wastewater system users as paramount. When community members are rightfully concerned that their children are being poisoned, EPA can and should step in and take responsibility to prevent a public health crisis. Acting quickly to address dangerous noncompliance will show EJ communities that EPA is doing its job to protect everyone, not just those in certain communities.

If there is confusion or miscommunication between state and federal actors, EPA needs to respond immediately to clarify information and streamline communications. EPA needs to be present in a community after a contamination event, working alongside other disaster organizations (such as the Red Cross and FEMA) to address the community's needs for clean water and sanitation. By being present, EPA demonstrates that the agency is willing and able to engage, and that engagement will help instill trust and faith in EPA.

• EPA should step in sooner when states and local government fail to protect communities from contaminated water and sewage issues.

EPA should move much more quickly when a Regional Office has questions or concerns about a delegated agency's ability to protect a community's water supply. In Flint, Michigan, the Regional Office received conflicting or incorrect information about the water from the Michigan Department of Environmental Quality, leading to life-threatening delays. EPA should be more insistent and request answers when the public is saying one thing, and the delegated state agency is saying another. Recent news of failures in North Carolina by the state's environmental quality

agency that is responsible for ensuring safe water quality further demonstrates on-going concerns with the EPA's regulatory responsibilities.⁵⁷

To reinforce EPA's authority to act, NEJAC asks EPA to review a set of legal analyses from the Environmental Law Clinic at the University of California at Berkeley on *U.S. EPA's Obligation and Authority to Ensure Access to Affordable Drinking Water under the Clean Water Act and Safe Drinking Water Act,* 58 and *EPA's Emergency Authority Under §1431 of the SDWA.* 59 Both reiterate the agency's authority and responsibility to ensure states, municipalities, and other water utilities are complying with their duties under the law. EPA Regional Administrators need to aggressively follow up when there is clearly a problem with data and information, and hold delegated agencies accountable when there are concerns that the agency is not performing its statutory duties under federal law.

Additionally, we find that some states (such as North Dakota, Wyoming and West Virginia), are often lax with industry regulations, as evidenced by weak public support for environmental regulation costs. ⁶⁰ In particular, fracking in many communities across the nation is a growing concern that we should pay close attention to, especially in communities that are directly impacted. We suggest the EPA investigate this issue to support states and communities in their own regulatory efforts.

• EPA should help educate the communities about risks to their water.

EPA should expand its water contamination education and prevention outreach to help communities better understand risks to drinking water sources from inadequately treated water, oil spills and leaks, and fracking and injection. Fracking and injection have the potential to cause groundwater contamination, particularly in cases where the chemical nature of the fracking water is unknown. NEJAC believes EPA should share scientific data and reports with communities where fracking is taking place. On water treatment, we suggest EPA add to its lead and copper testing procedures an examination of bacterial levels for vulnerable communities. EPA should update and share the report *Safe Drinking Water Act: Consumer Confidence Reports.* EPA

⁵⁷ Sara Ganim. For 10 years, a chemical not EPA approved was in their drinking water. CNN (November 13, 2018). https://www-m.cnn.com/2018/11/11/health/denmark-sc-water-chemical-not-epa-approved/

⁵⁸ U.S. EPA's Authority and Obligation to Ensure Access to Affordable Water Under the Clean Water Act and Safe Drinking Water Act. (22 February 2017). UC Berkeley Environmental Law Clinic. Available at http://www.ushrnetwork.org/sites/ushrnetwork.org/files/ucb_elc_epa_advocacy_memo_feb_22_to_nchrtws.pdf

⁵⁹ EPA's Emergency Authority Under §1431 of the Safe Drinking Water Act (5 October 2016). UC Berkeley Environmental Law Clinic. Available at

 $http://www.ushrnetwork.org/sites/ushrnetwork.org/files/appendix_1_ucb_elc_emergency_powers_memo.\\ pdf$

⁶⁰ Public support for environmental regulations varies by state (25 February 2016). http://www.pewresearch.org/fact-tank/2016/02/25/public-support-for-environmental-regulations-varies-bystate/

⁶¹ In California, a study is underway to understand the potential health risks to consumers from oil refinery "produced water" that is recycled for crop irrigation. Frequently Asked Questions about Recycled Oil Field Water for Crop Irrigation. (5 Apr 2016) *California Water Boards* http://www.waterboards.ca.gov/publications_forms/publications/factsheets/docs/prod_water_for_crop_irrigation.pdf

⁶² Safe Drinking Water Act: Consumer Confidence Reports available at https://www.epa.gov/ccr

should aggressively step up review of lead issues in homes and schools to achieve better community education and direct assistance. EPA should thoroughly distribute "Lead in Service Lines" posters and perhaps even develop dynamic new media by holding a national contest to develop a new poster, or even a social media application. The current poster is too wordy, lacks colorful graphics, and does not effectively engage the viewer. Educating the community about known hazards helps the community prioritize its efforts, as well as ensure they are prepared to plan for and implement solutions. 4

b EPA should conduct performance evaluations of Regional Administrators on their commitment to EJ communities.

Not all Regions have the same or comparable level of commitment to environmental justice. By assessing and comparing the environmental justice programs in each Region, EPA can put pressure on lagging regions to step up and help the most vulnerable communities across the country.

APPENDIX A WATER BOARDS LEADERSHIP INSTITUTE FOR RURAL COMMUNITIES

The RCAC (Rural Community Assistance Corporation) Water Boards Leadership Institute is a 6-month program that offers an extremely unique opportunity for utility decision makers and staff members of small rural utilities within a particular region. RCAC focuses on enhancing system management, project planning, local networks, and leadership development. The program offers tools, techniques, and a forum to develop skills that enable the participants to become effective leaders in their communities and their region. It encourages strong leaders to participate and become models for emerging leaders, both young and old.

The program is participant-centered and structured to allow participants to work on the planning, development, and implementation process of a local project with opportunities to

⁶³ Public Education Posters on Lead Service Lines. https://www.epa.gov/dwreginfo/public-education-posters-lead-service-lines

⁶⁴ As the EPA conducts education and prevention outreach to help communities better understand risks to drinking water sources, communities should also be made aware that some risks, such as uranium, are naturally occurring.

network. Leadership is about building trust. Trust is one of the main ingredients to implement partnerships. At the Leadership Institute, leaders begin to build trust and communication with each other. Below is an Outline of the Leadership Program offered in the Central Valley of California.

PROGRAM OUTLINE

Small water systems throughout the country have volunteer board members governing their public water system. According to the Fair Political Practices Board and the State Attorney General in California, all new and existing board members are required to get two hours of ethics training every other year.

MODULE 1: Leadership: Leadership Types, Community History and Telling Your Story/Advocating Effectively		
rning jectives:	 Learn about one another; Understand how embracing differences enriches leadership experiences; Examine the meaning of leadership and civic or community leadership; Expand understanding basics communication theory and active listening skills. 	
nining pics	 S Get to Know Each Other Better Leadership Models, Definitions, and Characteristics; Leadership Styles; Civic and Community Leadership; What Is "Effective" and "Ineffective" Communication? What are we going to practice back in our utilities? 	
irning jectives	 Explore different personality types and how this may impact actions or decision-making; Examine how individual differences affect group work; Open discussion on community's economic and demographic situation; Articulation of some community culture components; Introduce a positive community history; Examine useful community development patterns; Explore storytelling methods and techniques and personally apply them; Articulate your community's 8 forms of wealth. 	
oics Ove	 Are YOU? What Personality Inventories Say – MBTI Community Development rview: Know About Where You Live; Community History Timeline; Understanding Community Culture; OREO model of Communication and Advocacy: Opinion, Reason, Evidence, Opinion (restated); What are we going to practice back in our utilities? 	
oics	 Know About Where You Live; Community History Timeline; Understanding Community Culture; OREO model of Communication and Advocacy: Opinion, Reason, E Opinion (restated); 	

Community Development			
Learning Objectives	 Board Basics: Learn about the job of a Board and individual Directors; Making good use of everyone's time at Board meetings; Understanding the power of policy and why we use it; Identify regional water challenges and see what our communities have in common; Experience in listing community assets by category; Understand Integrated Regional Water Management (IRWM) statewide, regionally and how it impacts your community including funding opportunities. 		
Training Topics	Roles and Responsibilities. Management is not the same as Governing • Asset based Community Development (ABCD) model; • IRWM Plans; • Putting the program to work.		
MODULE 3: Leadership: Understanding Conflict & Building Community Communication			
Learning Objectives	 Understand conflict and how it can impact a situation; Experience a conflict mode instrument to better understand our approaches to conflict; Reflect on conflict transformation basics; Explore "Rapid Results" methods for gaining community understanding and support; Gain experience using consensus voting techniques. 		
Training Topics	 Active Listening to Prevent Conflict Ragged Start Opener – Community Partnerships; TKI Conflict Response Modes; Conflict Transformation Styles; Keirsey Temperaments based on MBTI Using Rapid Appraisal Methodology Fist to five technique for voting and other techniques that may work for your board; What tools from this program am I already using? 		
	MODULE 4: Board Development: SGMA (Sustainable groundwater Management Act); Communicating with legislators and funders		
Learning Objectives	 Basic understanding of the Sustainable Groundwater Management Act and its requirements, effects and demands on small community water systems; Basic communication skills and strategies when working with legislators and regulators/primacy agencies and communication with funding agencies. 		
Training	SGMA basics, timelines, determine each community's local GSA Training on		

Topics	 advocacy and legislative communication skills Project Funding. Funding agency communication, requirements, understanding; the funding process and why the requirements. And how do you prepare to ask for funding and to receive funding; How are these tools working for me? 	
MODULE 5: I	eadership: Organization, Planning and Resource Development	
Learning Objectives	 Understand and Use SWOT Analysis to make good regional and community decisions; Explore leveraging strengths and turning weaknesses into resources; Understand the concept of stakeholders; Learn the components and importance of annual, short term and project planning; Managerial and regional collaboration strategies; Review budgeting basics; Identify diverse community fundraising opportunities; Preparing for and selling rate increases to customers. 	
Training Topics:	 Organization and Planning: annual, long term and project planning Regional and individual SWOT analyses; Community Stakeholders. Project Stakeholders; Budgeting and fundraising locally —rate studies and rate setting; Collaboration and communication—towering tribute; Community Case Studies – Participants share putting the institute into practice. 	
MODULE 6: Board Development: Effective and Transparent Meetings, Board strengths, Board recruitment. Change Management. Graduation.		
Learning Objectives	 Understand generational change and how it applies; Understand and evaluate best practices for having effective meetings; Learn what makes strong boards; Prepare to recruit new volunteers to the board; Examine tools that ensure organizational sustainability; Celebrate graduation from the Institute. 	
Training Topics	 Robert's Rules of Order; The Brown Act—CA open meeting rules; Meeting agenda development and dealing with time management and problem behavior Assessing board experience, health and how to build a strong board, assess board training needs Strategies and planning for board recruitment—how to avoid STP; A review of all the 6 months and a plan for continue practicing the tools we learned; The Institute offers a class reunion and graduate seminar. Each class chooses its own topic. 	

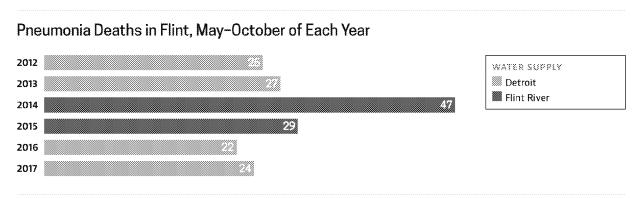
<u>APPENDIX B</u> CASE STUDIES - CHALLENGES

1. Flint, Michigan: Cost-cutting government officials poisoned an entire city and a whole generation of children

Problem:

The Flint, Michigan water crisis has brought to the national forefront the urgent and dire need for an evaluation of community water systems across the country. Nowhere have the dangers of public health, individual health and large-scale infrastructure replacement problems been more visible and documented than in Flint, Michigan. In April of 2014, the city of Flint and state-appointed Emergency Managers switched from Detroit water to Flint River water to reduce costs from the Great Lakes Water Authority. Soon after the untested switch residents began to voice concerns about problems with their drinking water. It came out of the tap brown, and people were getting rashes, headaches and other health ailments. The improperly-treated water from the Flint water plant caused old, decaying pipes to leach dangerous levels of lead into drinking water, poisoning everyone, including children. Later that year in October, the General Motors plant in Flint stopped using the city's water due to corrosion concerns on its engine parts. This well-documented crisis has identified federal, state and local government failures to address residents' concerns for more than a year until October 2015, when Flint officials finally switched back to Detroit water.

More than four and half years later, Flint is still replacing lead service lines through federal and state assistance to pay for the costly and laborious full replacement of pipes throughout the city. In many places, water is still unsafe to drink and wary residents continue to rely heavily upon bottled water. Flint residents reporting on-going health problems since bathing and laundry water are unfiltered. Many residents believe the EPA was too hasty in declaring that lead and copper test samples were below action levels without examining other bacterial and chemical contaminants they believe have continue to affect their health and weakened immune systems.



Source: Electronic Death Record System at the Genesee County Clark Register Office

The negligent decision by city officials not to treat the water supply to prevent pipe corrosion precipitated a public health crisis, and more than tripled the rates of the infectious bacterial disease Shigellosis in 2016.⁶⁵ Legionella bacteria was discovered in tap water at a local hospital and in many households - up to 1,000 times higher than normal tap water. These bacteria caused a Legionnaires' outbreak that killed 12 people,⁶⁶ and is correlated with higher pneumonia and deaths in a 2018 report.⁶⁷

Flint is certainly not the only city with lead concerns; the nation has many high-risk communities with lead pipe contamination. In July 2017, NEJAC sent a letter to the Administrator outlining several matters of concern, along with several recommendations that include local resident feedback about ongoing water contamination concerns, health problems and ongoing tap water fears. A much-anticipated February 2017 report by the Michigan Civil Right Commission concluded that the causes and effects of this national problem are largely due to environmental racism, emergency mismanagement, poor quality of housing and the struggling economy. A recent USA Today in-depth report found high lead levels in nearly 2,000 water systems across all 50 states. Many of these communities have lived with lead contaminated water for many years with little to no public notification and/or plans of action.

Solutions:

NEJAC strongly recommends that the EPA should issue a follow up report of its efforts to address these types of public water system problems. Ultimately, the assessment and scrutiny should help other system operators avoid the damaging financial decisions that led to this multivear disaster for affected residents and community public health.

Additionally, EPA should focus on these Flint and other lead-affected community priorities: 70

Re-examine bacterial levels for vulnerable communities as part of its on-going lead and copper testing.

Declare Flint an emergency disaster area to allow for additional health and human service benefits that residents need.

⁶⁷ Flint Water Crisis Deaths Likely Surpass Official Toll. (July 24, 2018). PBS.org

https://www.pbs.org/wgbh/frontline/article/flint-water-crisis-deaths-likely-surpass-official-toll/

http://www.usatoday.com/story/news/2016/03/11/nearly-2000-water-systems-fail-lead-tests/81220466/.

⁶⁵ Flint residents too scared of the water to wash. That's making them sick. (4 Oct 2016) https://www.washingtonpost.com/news/morning-mix/wp/2016/10/04/flint-residents-too-scared-of-the-water -to-wash-its-making-them-sick/?utm_term=.351e4ee71167.

⁶⁶ CDC finds first genetic link between Legionnaires' outbreak, Flint water. (Feb. 16, 2016). MLive.com http://www.mlive.com/news/flint/index.ssf/2017/02/cdc_finds_first_genetic_link_b.html

⁶⁸ MCRC Flint Water Crisis Report and Hearing Information. (2016) Michigan Civil Rights Commission. http://www.michigan.gov/mdcr/0,4613,7-138-47782_77964---,00.html

⁶⁹ Young, A. and M. Nichols (2016, March 11). Beyond Flint: Excessive lead levels found in almost 2,000 water systems across all 50 states. USAToday.com,

⁷⁰ NEJAC also recommends that EPA review our letter on Flint and implement recommendations from that letter.

- Ensure utilities use and residents know about incident reports to identify at-risk communities and share public data on state environmental test results online. Flint lead-test reports serve as a good example.⁷¹
- Review service line replacement in communities with large water infrastructure repairs and/or construction projects. Ensure that full line replacement addresses lead contamination concerns and not does contribute to worse affordability problems.
- Assess low income communities under emergency financial management and/or bankruptcy where clean and affordable public water may be at-risk. Analyses of the Flint water crisis can show how expedient and bottom-line financial decisions are made at the expense of sound operations, policies and public health. Other cities to watch out for include: Detroit, MI; Highland Park, MI; Jackson, MS; and Fresno, CA.⁷²
- Monitor municipal water shutoff policies that are predicated on financial solvency concerns and affordability problems in poverty-stricken communities, including public health risks due to water service denial based on ability to pay. Flint's residential water crisis originated in unaffordable water bills. EPA needs to investigate other alternatives, such as a national-level affordability program or direct grants to water utilities.
- Investigate the mistakes and lack of accountability by state water regulators such as MDEQ and implement steps to safeguard against more water safety and public health crises.
- Sandbranch, Texas: A poor community suffers without access to water or wastewater infrastructure

Problem:

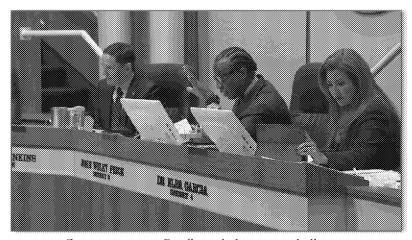
The town of Sandbranch, Texas is a textbook example of institutional neglect of an environmental justice community. But it is also a success story in the making. Sandbranch is a small, unincorporated town with an orphaned water system, never connected to the nearby Dallas system. The wastewater treatment plant for Dallas sits just a few miles outside of Sandbranch. Dallas refuses to annex Sandbranch, and the town has little political capital or cooperation with neighboring county or city governments to bring clean water and sanitation to this forgotten community. Founded in 1878 by freed slaves, the town has not had running water or adequate sanitation for over 30 years. The primarily black residents live on a floodplain and in poverty, without adequate sanitation or water supplies, and rely upon donated bottled water for daily water access.

http://www.usatoday.com/story/news/nation/2013/05/15/ten-california-cities-in-distress/2076217/

⁷¹ Flint Residential Testing Report - results collected through July 5, 2016. https://www.michigan.gov/documents/flintwater/Test_Results_Flint_Sorted_by_Lead_Concentration_513930_7.pdf
⁷² Welch, William M. (2013, May 15). *These California Cities Could Be Next in Bankruptcy*. USAToday.com,

Solutions:

Community leaders recently revived efforts to obtain help from EPA. EPA turned its attention to the struggling town, and facilitated a plan of action. Over the last year, EPA Region 6's EJ Coordinator has brought together community members and governmental agencies to address the town's historical water infrastructure problem. Decision-makers from the Federal Emergency Management Agency, US Department of Agriculture, Texas Commission on Environmental Quality, as well as local county officials are working with Sandbranch residents to help the community obtain vital funding to install a wastewater and drinking water system. EPA Region 6 helped the community identify the problems and work with federal, state and local agencies to generate workable solutions.



Commissioners in Sandbranch discussing challenges.

See: http://www.wfaa.com/news/local/southern-dallas/dallas-officials-discuss-sandbranch-water-crisis/30733997

Successful outcomes include:

- The Sandbranch community organized and formed a water supplying corporation and received a grant to conduct the preliminary engineering assessment from USDA-Rural Development;
- The community created a strategy for what they would like to see;
- A decommissioned wastewater treatment package plant that was a safety hazard to the community was taken down by the City of Dallas;
- The Dallas County established an office to provide coordinated assistance to all unincorporated areas in the City of Dallas;
- More than 300 volunteers have participated in community clean-up efforts;
- The community received a grant from the Texas Blue Bonnet Program to remove scrap tires from the community.

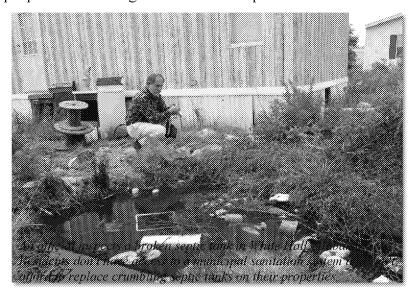
The community continues to work with USDA-RD to obtain 75% of the total cost for water and wastewater infrastructure services, while other local, state and federal partners will assist within their respective areas. If the community is successful in securing the USDA-RD grant, there will be a need for an additional 25% loan or grant. The Sandbranch working group will need to tackle the issue of housing—due to the community's level of poverty the housing in Sandbranch is problematic. Current dwellings may not pass code inspections or take in the new plumbing. Nevertheless, due to the Sandbranch community's drive and perseverance, as well as EPA Region 6's prioritizing the town and facilitating the working group, Sandbranch is that much closer to having a safe, workable sanitation and drinking water system.

3. Lowndes County, Alabama: Saturated soils and no municipal sewage systems lead to sewage pooling in residential yards

Problem:

Effective sewage treatment is a rarity in Lowndes County, Alabama. As one of the poorest counties in the U.S., many residents are unable to afford proper septic systems. Residents concoct their own sewer line using PVC piping and run the pipes from the toilets in their homes - oftentimes, stretching off some 30 feet above ground – until they reach a small ditch. During heavy rainstorms, puddles of raw sewage flood residents' yards and flow into their homes during frequent heavy rainstorms making people sick. Although the Alabama Department of Health

requires personal septic systems for each household, only 80% of people in the area have them. This does not work in areas such as the Black Belt, a region named for its dark, poorly drained soils. A high water table and frequent, high-volume rain events 73 typify this area. The leach pipes are below the water table after a rainstorm, preventing sewage inside the tank and pipes from draining properly. These personal systems are tank-and-leach fields.



Dave Martin / The Associated Press http://www.wglt.org/post/lack-adequate-sanitation-affects-poor-across-globe-and-us#stream/0

⁷³ The county gets 54 inches of rain per year on average, significantly more than the national average of 39 inches per year. http://www.bestplaces.net/climate/county/alabama/lowndes

Raw human waste either pools in open pits in homeowners' yards, or flows back up the pipes to flood sinks, toilets and bathtubs.

Open pits of sewage expose people to disease, creating a major public health threat. Lowndes County and others facing similar sewage crisis have high rates of hookworm and other parasites, as well as nausea and diarrhea. Additionally, mosquitos thrive in these sewage pools, creating an infestation with precursor conditions ominously similar to Zika and related outbreaks. ⁷⁴ Increasingly frequent severe weather events, like hurricanes and tropical storms, aggravate both the sewage and mosquito problems. During a 2017 visit by the United Nations Special Rapporteur on extreme poverty and human rights, Lowndes County residents demonstrated the extremely poor sanitation conditions often affecting people in developing nations. They revealed that a recent study found nearly one-third of tested residents were found positive for hookworm in stool samples. "When the trenches overflow, the soil becomes contaminated with waste. Anyone walking outside barefoot, or even with bare ankles, risks hookworm infection — that's because the worms are expert at latching on to passers-by ⁷⁵. Ingesting contaminated food can be another means of transmission.

Household sewer systems are estimated to cost between \$10,000 to \$30,000. ⁷⁶ But in a county where the median income is \$29,714 ⁷⁷ people face serious financial strain to afford the tank and leach field, let alone to pay for nearly constant repairs. Adding to the financial and emotional strain of living with a broken septic system, the Alabama Department of Health issues fines and even arrest warrants when families cannot afford the thousands of dollars to install or fix their systems. This is an area with a history of neglect, where 25% of the population lives below the poverty line, and often people simply cannot afford to comply. Many people in the county did not have running water until the 1990's. Governmental racism towards the predominantly-black population enabled the neglect of adequate public infrastructure.

Those who can afford the hassle and expense of relocating to a city away from the rural county often leave, creating resource flight. This flight further depletes the town's financial base. But many families have lived here for generations, and thoroughly enjoy their rural community. Lowndes County deserves a long-term solution that addresses the current system's household and public health crises, and long-term environmental problems, without creating new hazards in the process.

⁷⁴ https://blogs.cdc.gov/publichealthmatters/2016/03/zikaandwater/

⁷⁵ The U.N. Looks At Extreme Poverty In The U.S., From Alabama To California. (December 12, 2017). NPR.org https://www.npr.org/sections/goatsandsoda/2017/12/12/570217635/the-u-n-looks-at-extreme-poverty-in-the-u-s-from-alabama-to-california

⁷⁶ Catherine Flowers, Opinion: A County Where the Sewer is Your Lawn. May 22, 2018. New York Times. https://www.nytimes.com/2018/05/22/opinion/alabama-poverty-sewers.html

⁷⁷ http://www.encyclopediaofalabama.org/article/h-1349

Solutions:

Existing technology does not work with these soils. Now, community members are seeking new ways to finally and effectively address a longstanding issue. In 2008, Catherine Flowers, of the Alabama Center for Rural Enterprise, received an EPA grant to study on the problem. Flowers hired locals to canvassers who went door-to-door, hearing firsthand from people with both municipal and personal sewage treatment. Residents shared common frustrations and endured common atrocities: their septic systems do not function as promised, and they are being exposed to raw human waste. The survey concluded that the region needs new technology that actually works with its native soil type. People experienced the same problems regardless of whether they had a personal or municipal septic system—the technology does not exist to treat sewage in rural Southeastern towns that cannot afford to install municipal piped systems. Leach fields are simply incompatible in their current form with poorly drained soils and a high-water table.

To fully address this widespread problem of sewage treatment across the Black Belt in rural counties like Lowndes, the **EPA must develop (or support the development) of infrastructure and technology that meet the soil and climate demands of the area**. To do so effectively, the EPA should consider seven things:

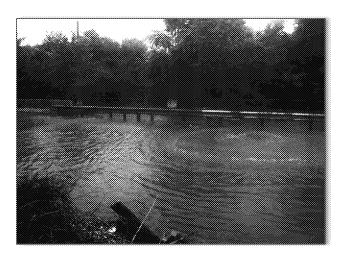
- 1. Recognize that the current technology does not work, no matter how well-funded.
- 2. Engage with residents who are directly impacted rather than the managing entities stuck in a failing cycle by administering surveys and communicating directly with the impacted populations.
- 3. Factor in climate change to the current paradigm and how increasingly severe storm events will increase the capacity demands
- 4. Set up research challenges at the public and private sector to generate more effective solutions than mound systems or switching to municipal management.
- 5. Decentralize the oversight: the Alabama Department of Public Health issues permits and installs systems, facilitates repairs, and reports violations. Neither the managing entity nor the engineers it hires have incentive to create a truly functioning system if they benefit from the constant need for repairs
 - 6. Encourage the Census Bureau to collect information on people's septic systems.
- 7. Consider combining innovative technology that would reduce the amount of sewage to be treated, and then treat it with a waterless system.

4. Baltimore, Maryland: Failing sewage system + thousands of residential water shut offs

Problem:

Millions of gallons of sewage back up into toilets, bathtubs and sinks, floods basements, roads and waterways, and overflows into the Baltimore Harbor. Meanwhile, residents pay hundreds of dollars a month to finance long overdue sewage repairs for an undersized system. And thousands of residents who cannot afford to pay their water bill are having their water shut off and may even lose their homes.

Between 2010 and 2012, over 7,000,000 gallons of raw sewage spilled into Baltimore's streams and harbor. The Baltimore Sun runs frequent articles describing weekend sewage overflows in the tens of thousands of gallons, which the city often fails to address for several days. After large rainstorms, basements flood with sewage, which destroys personal property and creates a health hazard. In 2015, the Baltimore Department of Public Works received 5,000 reports of sewage basement floods.



Sewer overflow in Baltimore. Source: http://wypr.org/post/what-s-behind-baltimore-s-failure-comply-federal-sewage-consent-decree

Residents of Baltimore, pay around \$200 every three months for combined sewer and water bills, which is a 330% increase from the year 2000. 81 Households living on less than \$25,000 a year (about a third of all city households) pay around 3.6% of their income for water and sewer, higher than the 3% maximum recommended by the United Nations. 82 Some residents face staggering bills, like one resident facing a \$6,000 water bill because of a substantial leak he could not afford to fix. 83 The Baltimore Department of Public Works shut off water service to about 1,400 accounts in 2016 and 8,000 in 2015. While city officials said many of the properties were vacant, if a bill falls behind

by only \$250 for two consecutive billing periods, homeowners can be eligible for shutoff.⁸⁴ The

84 Id.

62

⁷⁸ Baltimore City's Sewer System Consent Decree Fact Sheet

⁷⁹ http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-ci-sewage-updates-20160823-story.html

⁸⁰ https://www.citylab.com/solutions/2016/05/baltimore-basement-sewage-backup/484427/

⁸¹ Scott Tong, Baltimore Sewers: Time Bombs buried under the streets. The Marketplace. February 25, 2015

⁸² https://www.baltimorebrew.com/2016/10/27/baltimores-high-water-rates-violate-u-n-standards-advocates-say/

⁸³ Insurmountable bills lead to water shutoffs in Baltimore. http://www.wbaltv.com/article/insurmountable-bills-lead-to-water-shutoffs-in-baltimore/8775838.

City decided not to shut off water to any commercial properties, even though they owe the biggest amounts. 85

Baltimore delayed maintenance of their aging sewer system for more than 100 years after they first built it in 1909. EPA and Maryland brought suit to enforce compliance with the Clean Water Act, and settled in 2002 with the City of Baltimore to "end the years of chronic discharges of millions of gallons of raw sewage into city streets and local waterways." The city spent \$867.4 million during the first 14 years after the consent decree and expects to spend in total more than 2 billion dollars to fix the system. Costs for repairs, which the city should have been factoring into the past 100 years of water bills, now fall exclusively on post-settlement customers.

One reason that rates are so high is that Baltimore has a growing need for emergency and long-term maintenance, but also a shrinking funding base. ⁸⁷ The 2016 Census estimates the population to be 614,664 in the city of Baltimore, down from 733,826 in 1920. ⁸⁸

Solutions:

The settlement decree gave Baltimore 14 years to completely overhaul the sewage system, and the city has requested a delay. New compliance is scheduled for 2033. The city could not stick to the schedule because it did not have the resources to fix emergencies, while also spending time and money catching up on the more preventative maintenance schedule. However, the adage "better late than never" holds true and gives comfort to the city as it works together with EPA to once again have a sewage treatment system and waterways that citizens can point to with pride.

Additional solutions include:

- 1. Notify residents within 24 hours of sewage discharges;
- 2. Assist residents whose homes sewage overflows impact;
- 3. Prove that sewage repair work is creating actual water quality improvements;
- 4. Give taxpayers yearly reports on spending & progress;
- 5. Ensure that Baltimore's neighborhood streams, rivers, and Harbor will be safe for public recreation.⁸⁹

Another key takeaway is that delaying maintenance made this problem a lot worse. While raising rates is never a favorable political move in the short term, failing to keep up with repairs causes severe and cascading problems down the line. EPA should work with cities who are behind schedule to bring them up to date long before the pipes start bursting.

⁸⁵ City shuts off water to delinquent residents; hits Baltimore Co. homes hardest http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-ci-water-shutoffs-20150515-story.html

⁸⁶ City of Baltimore, Maryland, Sewer Overflows Settlement, https://www.epa.gov/enforcement/city-baltimore-maryland-sewer-overflows-settlement last accessed Nov. 20, 2017

⁸⁷ http://www.baltimoresun.com/news/maryland/baltimore-city/bs-bz-baltimore-population-loss-jumps-20170322-story.html

⁸⁸ Baltimore, Maryland Population History 1840 – 2016 Available at https://www.biggestuscities.com/city/baltimore-maryland, last accessed Nov. 20, 2017

⁸⁹ http://www.cleanwateraction.org/2016/08/08/6-million-gallons-sewage-baltimores-waterways

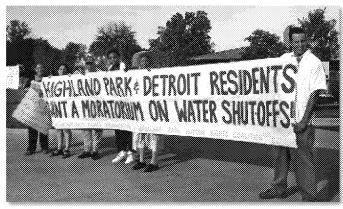
Baltimore should implement a program like Philadelphia's Tiered Assistance Program, where a water bill is based on household income. Residents do not need to be behind on their water bill to apply, and it is a one-size-fits-all application that covers applying for all social service relief programs. Also, the city should not target residents for shut-off before shutting off commercial properties with large outstanding water bills.

5. Detroit, Michigan: Unaffordable water rates lead to widespread residential water shut-offs

Problem:

In 2014, under the direction of local officials determined to convince wary partners to join the nascent Great Lakes Water Authority, the Detroit Water and Sewerage Department (DWSD) began massive shut-offs of residential water service to customers behind in their bills of at least \$150, or over 60 days late. Over 100,000 residents were affected particularly in low-income households of color with children, elderly persons, and people with disabilities or chronic illness. Residential water shutoffs averaged 2,000 per week while overdue commercial accounts were not affected. The city gave residents no notice of the imminent shutoffs and poverty law attorneys levied due process and civil rights complaints in bankruptcy court. Compounding the shutoffs was DWSD's reputation for poor asset management (e.g., broken, leaking pipes), grossly miscalculated customer bills, and nonexistent customer service. Over the next three years, more than one in six households in Detroit were cut off, totaling about 86,000 households that experienced some period without running water and proper sanitation.

Detroit's water bill averages \$75 a month—more than twice the national average, doubling in the past decade. 94
This rate is completely unaffordable to low-income residents. The city has one of the worst rates of poverty in the country: Approximately 40% of the city's population lives below the federal poverty level, and 85% of Detroit residents are African-American. Disconnecting water service leads to long-term consequences on family health and stability. For instance,



Detroit residents protest mass water shutoffs.

Photo: MWRO.org

 $^{^{90}\} https://www.theguardian.com/us-news/2017/jul/20/detroit-water-shutoffs-marian-kramer-bill-wylie-kellermann$

⁹¹ http://www.detroitnews.com/story/news/local/detroit-city/2016/03/31/detroit-water-shutoffs/82497496/

⁹² http://www.bridgemi.com/detroit-journalism-cooperative/detroit-cites-progress-water-shutoffs-actually-rose-last-year

https://www.theguardian.com/us-news/2017/jul/20/detroit-water-shutoffs-marian-kramer-bill-wylie-kellermann http://www.bridgemi.com/detroit-journalism-cooperative/detroit-cites-progress-water-shutoffs-actually-rose-last-year

under state law children can be taken out of homes by Child Protective Services for failure to have running water. 95

In an effort to bring greater action and media visibility to this crisis, grassroots groups invited two United Nations' Special Rapporteurs (S.R.) to visit and meet with Detroit residents on human rights violations. In October 2014, the S.R.'s on water, sanitation and housing accepted the invitation and met with residents and local officials. In an ensuing press conference, the U.N. issued a statement that if water is shut off to people unable to pay, it is a violation of basic human rights. ⁹⁶

Detroit advocacy groups have raised serious public health concerns due to increased rates of preventable food and waterborne illnesses associated with lack of sanitation (particularly Shigellosis, Campylobacter and Norovirus,). ⁹⁷ Shutting off the water and sanitation led to more than triple the rates of the infectious bacterial disease Shigellosis in 2016. ⁹⁸ Low-income communities of color are especially vulnerable to shutoffs, as reported in several cities: Boston, ⁹⁹ Baltimore, ¹⁰⁰ Philadelphia, and Clinton, Iowa ¹⁰¹ and Porterville, California. ¹⁰²

Solutions:

The City of Detroit faces a public health crisis, in part, due to lack of adequate residential sanitation from water shutoffs that further burdens a struggling population and poses bacterial threats among food service workers. Public health officials should declare a moratorium on water shutoffs to protect community health and promote water safety solutions. We support long-time calls from the people of Detroit for a low income-based water affordability program. Current forms of budgeted payment assistance are limited and unsustainable with most participants defaulting within 60 days,

⁹⁵ http://www.mchr.org/2015/03/congressional-briefing-on-water-in-detroit-and-us-stories-of-shutoffs-and-possible-solutions/

⁹⁶In Detroit, city-backed water shut-offs 'contrary to human rights,' say UN experts (20 October 2014). UN News Centre. https://www.un.org/apps/news/story.asp?NewsID=49127#.WNjvK461tE4

⁹⁷ Weekly Disease Report for the Week Ending Feb 4th, 2017 (MMWR Week 5): Reported Cases of All Reportable Conditions. http://www.michigan.gov/documents/mdch/Current_

⁹⁸ Flint residents too scared of the water to wash. That's making them sick. (4 Oct 2016) https://www.washingtonpost.com/news/morning-mix/wp/2016/10/04/flint-residents-too-scared-of-the-water -to-wash-its-making-them-sick/?utm_term=.351e4ee71167

⁹⁹ The Color of Water: A Report on the Human Right to Water in the City of Boston. (7 Jul 2014). Massachusetts Global Action.

¹⁰⁰ Baltimore Residents Protest Water Shutoffs Planned For 23,000 Homes: This spring the city's water department will send shutoff notices to nearly 23,000 residences. Despite the threat to public health, water shutoffs happen every year in cities across the country. (16 Apr 2015) Buzz Feed News. https://www.buzzfeed.com/azeenghorayshi/baltimore-residents-protest-water-shutoffs-planned-for-23000?utm term=.rmQrLnLY1#.dlljYzYEK

¹⁰¹ Task force begins water shut-off discussions. (22 Jul 2015). Clinton Herald. http://www.clintonherald.com/news/local_news/task-force-begins-water-shut-off-discussions/article_11fe6 b45-1450-5843-82c9-6e168d88d2df.html

¹⁰² California's Drought Is About Economic Inequality: Racial disparities and political dysfunction are at the heart of the state's water crisis. (8 Oct 2015). Mother Jones. http://www.motherjones.com/environment/2015/10/san-joaquin-valley-communities-no-running-water-drought

Advocacy groups, along with city council members and congressional staff, designed and proposed in 2005 a workable water payment plan based on income. The city adopted the plan in 2006, was never implemented, and the \$5 million establishment fund was redirected for other city debt. We support renewed efforts for Detroit water affordability are occurring on the heels of Philadelphia's successful program to create the nation's first water affordability plan based on income; and encourage the EPA to look into public health threats from water shutoff policies that also threaten water infrastructure and system operations.

NEJAC strongly supports grassroots groups' call for low-come water and sewerage affordability based on a household's ability to pay. This long-standing plight on Detroit environmental justice communities should be resolved with the utmost urgency and priority by the EPA.

6. Puerto Rico and the Need for natural Disaster Management of Emergency Water and Sewage

Problem:

When the devastating Hurricane Maria struck the island on September 20, 2017, it flooded much of the island with more than two feet of water. It soon became evident that local and federal authorities were not prepared to deal with a natural disaster on this level and far from the mainland. Ninety days after the storm, FEMA reported that 86% of the island's residents had access to potable water. Yet nearly 76,000 residents relied on potentially contaminated drinking water from a variety of sources that the Puerto Rico Aqueducts and Sewers Authority (PRASA) does not monitor, such as well water. Another report indicated, "There has been a significant uptick in waterborne illnesses and even reports of death due to leptospirosis, a fatal disease caused by contact with contaminated water." Local government agencies continued to issue warnings asking people coming in contact with streams, rivers and beaches to take precautions against raw sewage contamination.

A year after the devastating hurricane, a research letter published in the Journal of American Medical Association Network reported that while the official death toll is listed as 64 residents, more accurate estimates suggest the toll as high as 4,645 deaths. Among the revised figure are fatalities brought about from infectious disease outbreaks and a lack of water service, and inadequate access to other utilities. These public health casualties are cause for great alarm as they demonstrate a failure of adequate planning and disaster relief in the wake of a major hurricane upon poverty-stricken, U.S. shores.

 ¹⁰³ Byrd, Ayana. "EPA Cautions There Is Raw Sewage in Some Water Sources in Puerto Rico", Colorlines, January 8, 2018. https://www.colorlines.com/articles/epa-cautions-there-raw-sewage-some-water-sources-puerto-rico
 ¹⁰⁴ Santos-Lozada, Alexis R., PhD; Howard, Jeffrey T, PhD. October 9, 2018. "Use of Death Counts From Vital Statistics to Calculate Excess Deaths in Puerto Rico Following Hurricane Maria."
 https://jamanetwork.com/journals/jama/article-abstract/2696479

Ultimately, what was revealed through the hurricane relief efforts were Puerto Rico's long-term water issues. Since the 1980s health department and water authorities have discovered high amounts of industrial contaminants and other chemicals in Dorado wells and groundwater. The growing contamination was so bad that the EPA proposed putting the water system on a list of Superfund clean up sites. To address much-needed sewage-waste management, PRASA agreed in a 2015 settlement with the EPA to construct a \$120 million sewage system for the surrounding communities of Martín Peña Canal. This impoverished region near popular tourist zones has struggled for several decades with inadequate treatment of raw sewage and other contaminants. ¹⁰⁵

More than any other U.S. state or territory, Puerto Rico's antiquated system of pumping stations, treatment systems and pipes have received the most violations of drinking water safety. In 2017 it was estimated that nearly 70% of the populations receives potable water from sources that violate federal drinking water standards. ¹⁰⁶ The infrastructure divestment, recession and bankruptcy – coupled with staggering poverty and unemployment – underscored the wide-scale consequences of poorly managed and inadequate water and sewage systems.

A month after the hurricane hit, it was discovered that water utility workers opened one of the contaminated wells and began distributing the water to desperate residents. Water system contamination and infrastructure erosion were exacerbated with the storm; and the natural filtration karst aquifers were jeopardized as poisonous substances made their way into groundwater from flooded regions. A former battery plant in Arecibo that became a Superfund site in the summer of 2017 was washed over with floodwater during Hurricane Maria. Nearby residents still complain of unsafe water and do not believe what PRASA officials report.



Evaluating a water source in the wake of Hurricane Maria.

Photo credit: EPA

In an internal report, Federal Emergency Management Agency officials acknowledged their failure to properly prepare for the advancing hurricane. Among the negligence were poorly

¹⁰⁵ EPA "Reference News Release: Puerto Rico Aqueduct and Sewer Authority to Upgrade Sewage Infrastructure; Sewage Pollution in Martín Peña Canal, San Juan Bay, Condado Lagoon, and Atlantic Ocean will be Reduced." Release date September 15, 2015. https://www.epa.gov/enforcement/reference-news-release-puerto-rico-aqueduct-and-sewer-authority-upgrade-sewage

¹⁰⁶ Laskow, Sarah. March 5, 2018. "The Hidden Problems With Puerto Rico's Water Supply." https://www.atlasobscura.com/articles/puerto-rico-hurricane-water-contamination

supplied provisions of water and tracking mechanisms to ensure proper delivery. ¹⁰⁷ About 20,000 pallets of bottled water were discovered in September 2018 on a Ceiba, Puerto Rico airport tarmac. Federal and local officials were unable to determine when the massive shipment arrived. When residents tried to make use of the water they found it tasted and smelled bad after sitting in the sun for too long. ¹⁰⁸ Even now Puerto Rican residents in mountainside communities like Villalba are struggling to survive with tap water that comes and goes from faucets and make shift showers with pails of cold water.

Comparisons have been made between the water plights of Puerto Ricans and the on-going hardship of Flint, Michigan residents. Similar to residents of the lead-contaminated Great Lakes city, officials telling island residents that the water is safe to drink is typically met with frustration and distrust. Vulnerable Puerto Rican households continue to spend significant money on bottled water purchases despite assurances from EPA and local authorities about water safety. And mirroring Flint again, many residents – as estimated 20% of Puerto Ricans in this region – have left their homes due to unreliable water supplies. ¹⁰⁹

Solutions:

In our assessment, Puerto Rico and other U.S. sites need well-designed and executed plans for potable water needs when water contamination, inaccessibility and inadequate supplies are jeopardized during natural catastrophes. The problems continue well beyond the immediate crisis. Since the 2017 hurricane, 50% of Puerto Ricans households reported they could not get enough water to drink. As of this summer, approximately 53% of people said they worry about household water quality. PRASA estimates that as of August less than 1% of households experienced water service interruption but that figure does not include many isolated and rural communities that subsist on natural springs, mountain springs or their own wells. 110

NEJAC supports FEMA's revised preparation and disaster relief plan to prepare for Puerto Rico hurricanes. Among them are improved planning, training, coordination and technical assistance; better commodity stockpiling and distribution of water, generators, meals and other emergency provisions; and shelters and communication systems.

The Water Affordability, Transparency, Equity and Reliability (WATER) Act (H.R. 1673) was introduced in the House of Representatives in March of 2017 to provide nearly \$35 billion annually to modernize U.S. publicly-owned water systems. This federal assistance (in the form

¹⁰⁷ Sullivan, Laura. July 13, 2008. "FEMA Report Acknowledges Failures In Puerto Rico Disaster Response." https://www.npr.org/2018/07/13/628861808/fema-report-acknowledges-failures-in-puerto-rico-disaster-response ¹⁰⁸ Dobuzinskis, Alex. September 12, 2018. "Thousands of pallets of water bottles unused in Puerto Rico after hurricane." https://www.reuters.com/article/us-usa-disaster-water/thousands-of-pallets-of-water-bottles-unused-in-puerto-rico-after-hurricane-idUSKCN1LT0A4

¹⁰⁹ Milman, Oliver. August 8, 2018. "Another Flint? Why Puerto Ricans no longer trust water after the hurricane." https://www.theguardian.com/us-news/2018/aug/08/puerto-rico-hurricane-maria-water-quality

¹¹⁰ Schmidt, Samantha. September 12, 2018. "Water is everything." https://www.washingtonpost.com/news/national/wp/2018/09/12/feature/water-is-everything-but-for-many-in-puerto-rico-it-is-still-scarce/?utm term=.8fd449d538b6

of a trust fund) will help communities address failing service lines, and reduce the need for high service rate increases that make it difficult for low-income households to afford water and sewer service. It will also provide resources to assist schools with water infrastructure testing and replacement; upgrade household septic tanks and drainage fields; and raise the amount for Drinking Water State Revolving Fund grants. As of late 2017, the bill has not been sent to committee.

Additionally, potable water should continue to be provided long-term to residents until water and sanitation infrastructure has completed and public health concerns have been adequately addressed. Federal Drinking Water State Revolving Funds loans should be highly prioritized to Puerto Rican water and sewerage operators with a goal toward full loan forgiveness and no additional costs passed onto low-income, vulnerable customers.

APPENDIX C

CASE STUDIES - EMERGING SUCCESSES

1. Church Rock Navajo: Federal Water Infrastructure Project Results from Declaring Rights to Clean Water for Drinking and Irrigation

Problem:

Access to safe, clean drinking water across the reservation is one of the most difficult problems to manage. For many years, Indigenous residents in the Navajo communities of Red Water Pond worked uranium mines on the hillsides of the reservation before much was known – or reported – about how dangerous and deadly uranium extraction is to people and the surrounding environment. The mines have been long-closed but the toxic waste that piled up has had had long-term consequences. Red Water Pond Road is now considered one of the largest uranium-contaminated areas in the U.S., according to the EPA. ¹¹¹ When cleanup efforts began to remove thousands of tons of contaminated soil, residents in this region were told they would be relocated temporarily for safety.

Decades ago large and active uranium mines on the Navajo Nation were operated by United Nuclear Corporation and extracted approximately 3.5 million tons of ore. Among these mines near Gallop, New Mexico, was the Northeast Church Rock Mine (NECR). Several Navajo chapters and indigenous communities located south of and adjacent to the mines – including Pinedale, Church Rock and Red Water Pond Road – were deeply impacted by uranium-contamination in their soil, air and water. They have pressed for years to get



Red Water Pond Road. Photo credit EPA

extensive cleanup, health testing, environmental-impact assessments, research and analysis and funding to restore livability in this ancestral region. Church Rock Mine is identified by the EPA as having the highest priority for cleanup out of more than 500 other abandoned uranium mines on the Navajo Nation. 112

https://www.epa.gov/sites/production/files/2017-05/documents/factsheet-north-east-church-rock-mine.pdf

¹¹¹ Frosch, Dan. "Amid Toxic Waste, a Navajo Village Could Lose Its Land," https://www.nytimes.com/2014/02/20/us/nestled-amid-toxic-waste-a-navajo-village-faces-losing-its-land-forever.html

¹¹² EPA Northeast Church Rock Mine Site Update. March 2017.

Solutions:

The Church Rock Chapter of the Navajo Nation sponsored a report on the 2003-2007 monitoring project of uranium to assess residential environmental conditions and long-term impacts of uranium development in the region. Among the findings was that water quality in 17 unregulated sources such as wells and springs was not sufficient for human drinking. A second one reported that "Two wells were shut down and abandoned because of unsafe water quality during the course of the Project, and a "no human use" advisory was placed on another water source because of uranium levels exceeding the federal drinking water standard by more than two times." In related soil contamination affecting crops and livestock grazing, "Surface gamma radiation rates and uranium concentrations in soils near residences in the Red Water Pond area of Study Area A-1 were many times higher than background, indicating a potential health emergency for residents of the area." 113

Among the report's 13 recommendations were:

- 1. The Federal Government should fund a clean-up program targeting abandoned uranium mines that produced uranium for the Government's nuclear weapons program.
- 2. The Federal Government should fund a clean-up program targeting abandoned uranium mines that produced uranium for the Government's nuclear weapons program.
- The Lime Ridge Well (16-4-10, also known as the Pinetree Well) should be taken out of service because of unsafe uranium levels, and a replacement water source identified and developed.
- 4. A capped water well located in the Red Water Pond Road residential area 3 should be accessed by the Navajo Nation and evaluated for public water supply use.
- 5. USEPA's soil removal around five homes in the Red Water Pond Road community north of the NECR Mine should take into account the CRUMP uranium-in-soil findings.

In 2015 residents of the Navajo Red Water Pond met with the EPA Office of Environmental Justice to discuss on-going health problems from uranium contamination of their drinking water source. One member also testified at the Inter-American Commission on Human Rights in Washington, DC on the reservation's history of uranium mining, contaminated water and radiation health effects experienced by many former mine workers, 114 including kidney failure.

Navajo and Jicarilla Apache reservations and the City of Gallop have experienced inadequate and long-term problems with water supplies for people living off the San Juan River. In 2017, a federal construction project was announced for Navajo-Gallop to increase the supply of clean drinking water. Many new pipelines, pumping stations and storage tanks are being built and the project is scheduled for completion in March 2020. The infrastructure project is expected later to

¹¹³ "Report of the Church Rock Uranium Monitoring Project 2003-2007," May 2007. http://www.sric.org/uranium/docs/CRUMPReportSummary.pdf

¹¹⁴ Yurth, Cindy. November 5, 2015. "Red Water Pond resident testifies at international hearing." https://navajotimes.com/reznews/red-water-pond-resident-testifies-at-international-hearing/

provide water to more communities, including Buffalo Springs, Mexican Springs, Naschitti and Tohatchi. 115

NEJAC is highly concerned with decades of water and soil uranium contamination in documented cases in the Navajo Nation and among the Lakota – the latter whom which source their water from the Ogallala aquifer, "considered the largest, underground freshwater source in the world, covering eight states from South Dakota to Texas." ¹¹⁶ This history appears to be closely tied to generations of high levels of kidney disease among this community. The 2003-2007 study recommendations continue to require action and deserve priority consideration by the EPA. We are encouraged by the EPA's Community Involvement Plan for the Northeast Church Rock and Kerr-McGee Quivira mine sites that lays out Superfund clean up and assessment for the people most impacted in communities near the mines. ¹¹⁷ Yet as residents have testified, clean up choices often result in Indigenous people being asked to decide between relocating away from the toxic sites and ancestral lands, or stay in contaminated housing with unsafe water sources and toxic soil. We ask the EPA to prioritize Indigenous Superfund Sites and expedite the construction of new water and sewage systems on first nations and adjoining cities to reduce the dire health impacts on generations of residents.

2. San Diego, California: Effective partnerships, superb public outreach, and technological innovation lead to water supply and sewage solutions

Problem:

The city of San Diego, California has extremely limited local fresh water and sewage infrastructure resources. For the past several decades, San Diego has been struggling to provide clean, safe water and sanitation to millions of residents while grappling with drought, inadequate technology, and rising costs. San Diego faces a massive sewage infrastructure problem with the continued operation of the city's aging and inadequate Point Loma Sewage Treatment Facility. An EPA-issued waiver from Clean Water Act requirements means the Point Loma facility is the only one of its kind left in the nation that does not meet federal clean-water standards. It would cost the city nearly \$2 billion to upgrade the plant, so San Diego instead discharges hundreds of thousands of gallons of partially-treated sewage directly into the ocean annually.

In addition, San Diego has a water supply issue. On average, 85% of the city's drinking water supply is imported from the Colorado River and Northern California. In the past, obtaining water from these sources was a reliable option, but environmental stresses, court-ordered pumping

¹¹⁵ https://www.doi.gov/pressreleases/interior-announces-62-million-construction-contract-navajo-gallup-water-supply-project

¹¹⁶ Suree Towfighnia and Waging Non Violence, *Water First! Lakota women and ranchers lead charge to close toxic mine*, Ecologist (October 13, 2015), https://theecologist.org/2015/oct/13/water-first-lakota-women-and-ranchers-lead-charge-close-toxic-uranium-mine

¹¹⁷ "Community Involvement Plan for the Northeast Church Rock and Kerr-McGee Quivira Mine Sites." 2016. https://www.epa.gov/sites/production/files/2017-05/documents/factsheet-necr-quivira-cip.pdf

restrictions in Northern California, and a historic drought have reduced the amount of deliverable water. The city's reliance on imported water makes San Diego vulnerable to supply shortages and price increases. The city needs new sources of water that are under local control. Additionally, with the region's population projected to reach 3.9 million people by 2030, demands will increase and strain limited outside water supplies.

Twenty-five years ago, city officials recognized the unsustainability of the Point Loma plant, as well as importing water, and attempted to implement a technology to recycle wastewater into clean, safe drinking water. But the initial sewage-to-drinking-water system campaign failed to convince citizens that recycled water would be safe to drink. The campaign faced strong opposition. There were accusations of discrimination and environmental injustice, stemming from a proposal that the recycled water be sent to less affluent communities. There was also fear of contamination, and the "yuck" factor (the concept of "toilet to tap" evoked strong disgust). The project faced tremendous opposition and public disapproval due to poor messaging--that those who were low-income and people of color would be receiving the recycled water. So, the city scrapped the original sewage-to-drinking-water proposal—until now.



What is Pure Water San Diego?

- 20 year program to provide a safe, reliable and local drinking water supply for San Diego
- Uses proven water purification technology and is environmentally sustainable
- Is a cost-effective solution, eliminating the need for expensive upgrades to the Point Loma Wastewater Treatment Plant





Point Loma and Pure Water San Diego: An Integrated Water and Wastewater Solution. Industrial Environmental Association Water Committee. Slide Player, September 11, 2014. https://slideplayer.com/slide/8648287/

Solutions:

San Diego determined that fending off environmental lawsuits and spending millions of dollars to upgrade the outdated Point Loma facility was short-sighted and ineffective. The city wanted to revisit the sewage-todrinking water concept, but this time, they would do it right. The communications, marketing, and public outreach component of the savvy-branded "Pure Water San Diego" project has won national awards.

In an extraordinary effort to build a public information

campaign that would pave the way for acceptance of water recycling, the city also joined forces with the powerful Water Reliability Coalition—a large group of nonprofits, citizen organizations, schools, unions, trade and professional associations that wholeheartedly support Pure Water San Diego. The San Diego Water Board, California's State Water Resources Control Board Division of Drinking Water Programs also support Pure Water. Due to a massive city-

wide (and award-winning) marketing and educational campaign, over 70% of the city's residents are now in support of the project. The city made a tremendous effort to educate the population and avoid any suggestion that the recycled water would only be for low-income, communities of color. Recycled water is safe for everyone and everyone will be using it, as the recycled water will be piped and mixed into the city's San Vicente Reservoir. It is a long-term solution for San Diego—by using technology to recycle the city's wastewater into drinking water, it will potentially divert hundreds of millions of gallons of wastewater away from the Point Loma facility (and the ocean), as well as localize the city's water supply. They will no longer have to rely on imported water.

This project demonstrates the power of diverse coalitions, innovative technology, community engagement, and long-term planning to solve both drinking water and wastewater infrastructure issues for the present and the future.

Consultants working on the project made these recommendations to build public support: 118

- 1. **Start with research:** Who are your audiences? What do they think? What do they understand?
- 2. **Get the language right:** Do not assume your audiences know anything about potable water or how their water supply is maintained for their benefit.
- 3. Talk tech, but do it briefly and simply: Photographs, graphics, and simplified descriptions have been proved to aide communication success.
- 4. **Build alliances:** A coalition of supporters can create a powerful bandwagon that can attract members of their own circles of influence.
- 5. **Query your team's attitudes:** When identifying stakeholders and audiences, make sure your own employees are at the top of the list. Find out what they think or what they need to know.
- 6. **Promote two-way communication but manage expectations:** Invite input where it can be used, but set realistic expectations for how input will be incorporated.
- 7. **Develop a message platform:** The ultimate goal is for people to see potable reuse as an acceptable alternative because they have been well informed in a transparent way.
- 8. **Use graphics and videos:** Given the complexity of reuse projects, clear graphics are critical to help customers visualize a project and understand technical aspects.
- 9. **Establish a news bureau:** Get ready for media relations and develop a rapid response plan to address misinformation or misunderstanding.
- 10. **Use social media judiciously:** It can be helpful, and can be dangerous. Understand its power and be strategic.
- 11. **Touring is believing:** Solid graphics are great; hands on experiences are even more powerful. Where demonstration or touring is possible make plans early.

¹¹⁸ http://www.katzandassociates.com/2017/08/11-outreach-strategies-for-potable-reuse/ *See* also "Getting to Yes, Public Outreach for Potable Reuse: Bring the Public to a New Level of Acceptance." Sara M. Katz and Patricia A. Tennyson, Journal AWWA, November 2015.

Philadelphia Successfully Implements the First Income-Based Water Affordability Program in the U.S.

Problem:

As described in earlier sections of this report, water affordability for low-income households is emerging as a critical concern among many water rights advocates to ensure household well being, family intactness and public health vitality. The denial of residential water service to customers too poor to pay water and sewerage rates is both a matter of public and private concern as local officials and families must contend with the consequences.

Solutions:

These issues were among the concerns raised by members Philadelphia's City Council in 2015 when it unanimously pioneered and passed the Tiered Assistance Program (TAP). The initiative proactively helps residents who are struggling with water bill payments to receive help before they get into arrears. Rather than bills based on usage, qualified low-income customers are billed on a percentage of household income and size. Water conservation and free leak detection tests are additional components of the program to help keep down consumption levels.

Ensuring water and sewage affordability for the city's residents is part of a plan to secure multiple community and system benefits. Low-income customers below 150% of the poverty line who pay what they can afford help minimize the costs paid to collection efforts and offer consistency in anticipated water system revenue for operations and infrastructure expenses. Providing customers with affordable bills also reduces (and hopefully prevents) water bills liens on residential property taxes leading to foreclosures.

Another critical component of Philadelphia's development, implementation and assessment of TAP is the consumer protection assistance offered by local legal aid attorneys to research and analyze Philadelphia Water Department requests for rate increases. The independent rate board selected a Community Legal Services attorney as a public advocate to represent customers' interest in water rate proceedings offering another level of counsel on behalf of low-income ratepayers. ¹¹⁹

NEJAC finds that creating equitable water and sewerage pricing for the most vulnerable households is bound to become a necessary trend as more cities grapple with systems costs and consumer constraints. The Philadelphia TAP concept, including rate board consumer advocates, can be a model program for other cities with similar water affordability challenges.

¹¹⁹ Rinde, Meir. "After months of wrangling, a boost in city water rates will take effect in September." July 23, 2018. https://whyy.org/articles/after-months-of-wrangling-a-boost-in-city-water-rates-will-take-effect-in-september/

4. Rogers-Eubanks Neighborhood, North Carolina: A community secures a plan for clean drinking water after decades of landfill pollution

Problem:

The Orange County Municipal Landfill was built in the Rogers-Eubanks neighborhood in 1972, with promises from then-Mayor Howard Lee that he would provide water and sewer services, pave the local road, and put a recreation center on the landfill when it was closed. The community never saw those improvements. And instead of closing the landfill, the County expanded the landfill in 1982 and added a liner, then expanded the landfill again and added a transfer station in 2007.

Solutions:

Local activists, fed up with government inaction and sick of the landfill's harmful impacts on the community, began investigating its effects, finding raw sewage seeping from yards, elevated levels of fecal and *E. coli* contamination in local water sources and toxic chemicals in the air. ¹²¹ These results brought investigators from the Orange County Department of Health, who concluded that less than half of all septic systems were failing, drinking water sources were contaminated with fecal bacteria, and nine out of eleven wells tested failed to meet health standards. Working with Congressional leaders, county commissioners, and state leaders over the past two years has resulted in a solution to provide these residents with safe drinking water by 2019.

5. Georgia Rural Community Assistance Project: Addressing legacy and naturally occurring contamination by providing technical assistance to help communities achieve clean water

Problem:

Tennille, Georgia's drinking water is contaminated with dry-cleaning fluid from a closed manufacturing facility. A Georgia Department of Natural Resources Environmental Protection Division consent order requires the city to remove the chemical contamination, implementing corrections to all other deficiencies, and submitting a cleanup report. The Georgia Rural Community Assistance Project (RCAP) team has begun discussions to assist the city with a corrective plan and will keep in contact with the state agency throughout the project cycle.

Solutions:

To date, activities by the Georgia RCAP staff have included a site visit and meeting in Tennille with the project engineer and mayor and the revision and approval of the city's water purchase agreement with the neighboring city of Sandersville. The new agreement will allow the city to

¹²⁰ https://sites.duke.edu/docst110s 01 s2011 sb211/rogers-eubanks/the-orange-county-landfill/

¹²¹ https://www.newyorker.com/news/news-desk/fighting-environmental-racism-in-north-carolina

pay for any increased amount water purchased from Sandersville at the cost of production for a period of up to two years. The agreement was approved by both cities and signed in October 2016. The Georgia Technical Assistance Provider and engineer met with the city officials again in early December 2016 to go over the results of well tests and make a determination on how to best implement a long term plan of corrective action to resolve the compliance order from the state. The city may have to close the wells affected permanently but discussions continue.

Problem:

Cairo, Georgia suffers from naturally high levels of arsenic in its drinking water caused by a strip of land that bisects the state known as the Gulf Trough, which is essentially an ancient shoreline. The Georgia Department of Natural Resources Environmental Protection Division issued Cairo a Safe Drinking Water Act compliance order on October 4, 2016 because the city's drinking water exceeded the maximum contaminant level for arsenic. The state immediately referred the problem to Georgia RCAP, whose program staff met with the mayor and consulting engineer to discuss the problem. Georgia RCAP completed a fiscal analysis for the city to determine their capacity for additional long-term debt during the outset of the project.

Solutions:

To address the issue of naturally occurring arsenic, the state required the city to build a new water treatment facility that includes arsenic filtration, by March 31, 2017. The city must also notify the public of its results on a quarterly basis and needed to come into compliance with the arsenic limits by 2018. Georgia RCAP will provide technical assistance to city employees to train them how to operate the new filtration system.

APPENDIX D EPA's Charge Questions to NEJAC

1. Priority Needs Identification

- a. What does the NEJAC understand to be the most significant challenges for communities in providing for safe and clean water?
- b. What can the EPA do, in collaboration with states and other stakeholders, to help gather data on water infrastructure needs/challenges for communities?
- c. What insights and examples can the NEJAC offer to states and the EPA to help identify communities of concern and inform priority-setting processes for providing assistance, including consideration of communities that face public health risks from regulated or unregulated contaminants suspected to be present in drinking water?

2. Tools for Community Capacity Building

- a. What best practices and tools would the NEJAC recommend to assist communities with the development of water system technical, managerial and financial capacity; and can the NEJAC provide examples of how these practices and tools have been used effectively?
- b. Can the NEJAC offer models or templates that provide for public input into the practices and tools?
- c. Are there certain practices and tools that are especially well matched to particular types of communities in the categories of concern?
- d. Can the NEJAC provide examples of innovations that have helped communities develop water system capacity?

3. Community Engagement and Education

- a. What approaches and best practices would the NEJAC recommend to support meaningful community engagement and input to help inform funding priorities for state revolving fund programs?
- b. What steps can states, the EPA and other stakeholders take to encourage these communities to participate in local planning processes for determining 1) their priority infrastructure funding needs; 2) their infrastructure pre-development needs and 3) their needs for technical assistance and training to develop water system capacity?
- c. What can states, the EPA and other stakeholders do to help educate communities where water and wastewater infrastructure issues exist?
- d. Are there ways that states, the EPA and other stakeholders could more broadly help educate communities about water and wastewater infrastructure issues?

4. Water System Partnerships

- a. In the NEJAC's experience, what are the barriers to water system partnerships and how can they be overcome?
- b. What can the EPA, working with states, communities and other stakeholders, do to inform and encourage communities to identify partnership opportunities and enter into sustainable partnerships?
- c. What can the EPA, states and other stakeholders do to increase collaboration within the water sector?

d.	How could the EPA and states work with drinking water and wastewater utility associations, colleges and universities, and research institutions to bring them into the conversation?
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

April 18, 2019

THE ADMINISTRATOR

Mr. Richard Moore Chair National Environmental Justice Advisory Council Los Jardines Institute 803 La Vega Drive, SW Albuquerque, New Mexico 87105

Dear Mr. Moore:

I have received the National Environmental Justice Advisory Council's report titled *EPA's Role in Addressing the Urgent Water Infrastructure Needs of Environmental Justice Communities*. Thank you for your leadership of this important advisory committee.

I appreciate the NEJAC's feedback on how the U.S. Environmental Protection Agency may better assist communities with identifying opportunities for financing water infrastructure projects, as well as ways to ensure communities have clean, affordable water and sanitation.

It is important that the EPA share tools and best practices to assist communities of concern with developing the capacity to address their water infrastructure and sanitation challenges. I appreciate your thoughtful advice as we work together to protect the health and environment of our most vulnerable and overburdened communities.

Andrew R. Wheeler

cc: NEJAC Members

Brittany Bolen, Associate Administrator for the Office of Policy Matthew Tejada, Director for the Office of Environmental Justice Karen L. Martin, Designated Federal Officer and NEJAC Program Manager

Message

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 4/24/2018 11:41:48 AM

To: Bolen, Brittany [bolen.brittany@epa.gov]

Subject: NSR Guidance Documents

Brittany,

I hope you are doing well! I have a quick question for you, do you know if EPA has sent the NSR memo's (i.e. guidance) to Congress?

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004 Direct: 202-442-2459

Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 12/15/2017 11:06:17 PM

To: Bolen, Brittany [bolen.brittany@epa.gov]
CC: Lovell, Will (William) [lovell.william@epa.gov]

Subject: Re: [EXTERNAL] RE: RMP

Thanks, Brittany. Waiting to hear back from one of our subject matter experts and should have a good idea of a time that week. Appreciate your willingness to meet with us.

On Dec 15, 2017, at 1:28 PM, Bolen, Brittany < bolen.brittany@epa.gov> wrote:

Hi Mike -

Seeing your other email reminded me of this one, which I had flagged for a response. I am happy to coordinate with the appropriate staff to meet with you on this issue. Please work with Will Lovell (cc'd) to schedule a meeting for early January.

Thanks, Brittany

From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]

Sent: Wednesday, December 6, 2017 9:42 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov >; Bolen, Brittany < bolen. brittany@epa.gov >

Subject: RMP

Good morning Mandy and Brittany,

I hope you both are doing well and had a nice Thanksgiving. I know neither of you are covering the RMP issue, but wanted to see if you all could help me track something down in regards to that issue.

Craig Haas, at EPA, has stated that the RMP reconsideration rule is being drafted, as we saw this blurb this morning from a lawfirm's daily email:

"Haas stated that EPA is currently drafting a Reconsideration Rule, which will rescind some RMP provisions promulgated under the original amendments and modify others. EPA anticipates providing a draft of the proposed Reconsideration Rule to the Office of Management and Budget ("OMB") in early 2018, and the agency will accept public comments once it is published in the Federal Register."

We were not getting the impression from your other colleagues that drafting had begun. Is there any way you can help me determine if that is true? If you do not know, could you please point me in the right direction of who to ask at the Agency?

Thank you in advanced for any help you can provide!

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004 Direct: 202-442-2459

Cell: 202-213-2548 Fax: 202-442-2492 mjbirsic@marathonpetroleum.com

From: Bolen, Brittany [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=31E872A691114372B5A6A88482A66E48-BOLEN, BRIT]

Sent: 10/3/2018 4:14:14 PM

To: Birsic, Michael J. [mjbirsic@marathonpetroleum.com]

Subject: Re: Call

```
My work cell: Ex.6 Personal Privacy (PP) Thanks.

Sent from my iPhone

> On Oct 3, 2018, at 11:31 AM, Birsic, Michael J. <mjbirsic@marathonpetroleum.com> wrote:

> Hi Brittany,
> Can you please send me the best number to reach you? Thank you!
> Mike
```

CC:

Wheeler, Andrew [wheeler.andrew@epa.gov] From:

Sent: 4/20/2018 6:48:54 PM

To:

Wheeler, Andrew [wheeler.andrew@epa.gov]; |wyak@Ex.SPersonal Privacy (PP) |msquared615@Ex.SPersonal Privacy (PP) |; |wyak@Ex.SPersonal Privacy (PP) |msquared615@Ex.SPersonal Privacy (PP) |ak1201@Ex.SPersonal Privacy (PP) |

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[yamada.richard@epa.gov]; jdokeeffe@ [E.S. Pursonal Privacy (PP)]; MaryAnne.Dunlap@sanofi.com; Michele Nellenbach [mnellenbach@bpcaction.org]; Andrews, Joshua L. [Joshua.Andrews@FaegreBD.com]; Matthew Hite

[mhite@gpamidstream.org]

Subject: Reminder: Please RSVP - EPA Deputy Administrator's Ceremonial Swearing-In

Location: Green Room **Start**: 5/4/2018 3:00:00 PM **End**: 5/4/2018 4:30:00 PM

Show Time As: Busy

Burton, Tamika [burton.tamika@epa.gov] From:

Sent: 4/30/2018 2:33:02 PM

| wyak@| ELE PRINCIPAL PRI To:

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Angie.Giancarlo@mail.house.gov; Annie_Caputo@epw.senate.gov; Michael.J.Catanzaro@ Ex. 6 Personal Privacy (PP)

brian.c.mormino@Cummins.com; chadbradley@Ex.6 Personal Privacy (PP) Dan.Barron@arlp.com;

Elizabeth.Fox@mail.house.gov; frank.r.fannon@ [E. E. Personal Privacy (Pt)] suzannegillen@ { [E. E. Personal Privacy (Pt)] } suzannegillen@ { [E. E. Personal Privacy (Pt)] } martyhall1@ a [E. E. Personal Privacy (Pt)] } MaryAnne.Dunlap@sanofipasteur.com;

mhite@GPAglobal.org; Ference@S-3Group.com; MNellenbach@bipartisanpolicy.org;

Nathan.Richmond@oig.dot.gov; Neil.Naraine@ipaper.com; rebafree@isagespericipi; louis.renjel@duke-energy.com;

sdhigley@marathonpetroleum.com; thassenboehler@ Ex. 6 Personal Privacy (PP); genevievemaul@ Ex. 6 Personal Privacy (PP)

dimitri.karakitsos@hklaw.com; blu.hulsey@clr.com; Anna.Burhop@bracewell.com; rick@cypressgroupdc.com;

ltravers1011@ [ELEPHYSON PRINCE | Hanley, Mary [Hanley.Mary@epa.gov]; Sherlock, Scott [Sherlock.Scott@epa.gov]; Orr.kimberlie@Epa.gov; McLean, Sarsah [McLean.Sarsah@epa.gov]; Huddleston, Don [Huddleston.Don@epa.gov];

Anapolle, Kent [Anapolle.Kent@epa.gov]; Cheatham, Tony [Cheatham.Tony@epa.gov]; Funke.odelia@Epa.gov;

Roepe, Wayne [Roepe.Wayne@epa.gov]; Godwin, Dave [Godwin.Dave@epa.gov];

mary frances repko@epw.senate.gov; Mary.Martin@mail.house.gov; Rick.Kessler@mail.house.gov; Luke_Holland@inhofe.senate.gov; Wendi_Price@inhofe.senate.gov; richard_russell@epw.senate.gov;

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[yamada.richard@epa.gov]; jdokeeffe@jespergergerj. MaryAnne.Dunlap@sanofi.com; Michele Nellenbach [mnellenbach@bpcaction.org]; Andrews, Joshua L. [Joshua.Andrews@FaegreBD.com]; Matthew Hite

[mhite@gpamidstream.org]

Reminder: Please RSVP - EPA Deputy Administrator's Ceremonial Swearing-In

Location: Green Room

Subject:

5/4/2018 3:00:00 PM Start:

End: 5/4/2018 4:30:00 PM

Show Time As: Tentative

From: Wheeler, Andrew [wheeler.andrew@epa.gov]

Sent: 4/20/2018 6:48:54 PM

To: Wheeler, Andrew [wheeler.andrew@epa.gov]; lwyak@[ELE Personal Privacy (PP)]; msquared615@[ELE Personal Privacy (PP)];

Vmcwhorter@smithpachter.com; lauren.tabbara@[ELSPERSONIPRINGYIPP]; jcoghlan@[ELSPERSONIPRINGYIPP] jak1201@[ELSPERSONIPRINGYIPP]

Dave. Zook @ fae grebd. com; Mary. Bono @ fae grebd. com; Josh. And rews @ fae grebd. com; And rews @ fae grebd. com; Mary. Bono @

Darrin.Munoz@faegrebd.com; Brandon.Kirkham@faegrebd.com; Ted.Bristol@faegrebd.com;

Frank.Swain@faegrebd.com; Debra.Lappin@faegrebd.com; David.Gogol@faegrebd.com; Skip.Stitt@faegrebd.com;

Michael.Adelberg@faegrebd.com; Libby.Baney@faegrebd.com; Kevin.Brennan@faegrebd.com; Hope.Costa@faegrebd.com; Beena.Patel@faegrebd.com; Nicholas.Manetto@faegrebd.com;

saaron@mercuryllc.com; alexrenjel@ Ex.6 Porsonal Privacy (PP) Angie. Giancarlo@mail.house.gov; Annie_Caputo@epw.senate.gov;

Michael.J.Catanzaro@ Ex. 6 Personal Privacy (PP) brian.c.mormino@Cummins.com; chadbradley@ (Ex. 6 Personal Privacy (PP) Dan.Barron@arlp.com; Elizabeth.Fox@mail.house.gov; frank.r.fannon@gmail.com; suzannegillen@ Ex. 6 Personal Privacy (PP)

martyhall1@daustendennen james@okeeffestrategies.com; keenglish78@Ex.6 Personal Privacy (PP)

MaryAnne.Dunlap@sanofipasteur.com; mhite@GPAglobal.org; Ference@S-3Group.com;

MNellenbach@bipartisanpolicy.org; Nathan.Richmond@oig.dot.gov; Neil.Naraine@ipaper.com;

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Anna.Burhop@bracewell.com; rick@cypressgroupdc.com; ltravers1011@ [L. Promod Princey | Princey |

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 $Godwin, Dave \ [Godwin.Dave @epa.gov]; mary_frances_repko @epw.senate.gov; Mary.Martin @mail.house.gov; Mary.Martin @mail.house.gov$

Rick.Kessler@mail.house.gov; Luke_Holland@inhofe.senate.gov; Wendi_Price@inhofe.senate.gov;

 $richard_russell@epw.senate.gov; Brian_Clifford@epw.senate.gov; Justin_Memmott@epw.senate.gov; Ford, Hayley, State of the context of the con$

[ford.hayley@epa.gov]; Jenkins, Donna [Jenkins.Donna@epa.gov]; Vance, Eric [Vance.Eric@epa.gov];

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Wilcox, Jahan [wilcox.jahan@epa.gov]; Woods, Clint [woods.Clint@epa.gov]; Yamada, Richard (Yujiro) [yamada.richard@epa.gov]; jdokeeffe@[ExsPurson | MaryAnne.Dunlap@sanofi.com; Michele Nellenbach [mnellenbach@bpcaction.org]; Andrews, Joshua L. [Joshua.Andrews@FaegreBD.com]; Matthew Hite

[mhite@gpamidstream.org]

Subject: Reminder: Please RSVP - EPA Deputy Administrator's Ceremonial Swearing-In

Location: Green Room

Start: 5/4/2018 3:00:00 PM **End**: 5/4/2018 4:30:00 PM

Show Time As: Busy

EPA Guests and Colleagues,

You are invited to join for Andrew Wheeler's ceremonial swearing-in as Deputy Administrator. The swearing-in will take place <u>Friday, May 4, 2018 at 11:00 am</u> in the Green Room. Some light refreshments will follow.

In order to ensure access to the Green Room and an accurate head count, please RSVP by replying to this invitation by COB, Monday, April, 30.

Guests – please arrive 20mins before the ceremony to: 1200 Pennsylvania Avenue Northwest Washington DC 20460 – You will enter the William Jefferson Clinton North(WJC) building. You will check in and go through the security screening, please present your ID to the security officer and they will notify your guide of your arrival and we will escort you to the ceremonial suite.

Appointment

From: Bolen, Brittany [bolen.brittany@epa.gov]

Sent: 12/21/2017 2:51:04 PM

To: Bolen, Brittany [bolen.brittany@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]; Brown, Byron

[brown.byron@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]; Darwin, Veronica [darwin.veronica@epa.gov];

Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]; Hesselbein, Sherry L. (MPC)

[shesselbein@marathonpetroleum.com]; Peterkoski, Timothy J. (MPC) [tjpeterkoski@marathonpetroleum.com];

Haney, Scott A. (MPC) [sahaney@marathonpetroleum.com]

Subject: Meeting w/Marathon re: RMP Rule

Location: WJCN 3500 (Call: Ex. 6 Personal Privacy (PP)

Start: 1/4/2018 3:00:00 PM **End**: 1/4/2018 3:30:00 PM

Show Time As: Tentative

Directions: Please use the **William Jefferson Clinton North Entrance located on your right as you exit the Federal Triangle Metro Station**. Please arrive 10 minutes prior to the meeting with photo IDs to clear security.

EPA Contact: For an escort from security to the meeting, please call (202) 564-4332; for all other matters, please call Robin Kime (202) 564-6587.

Attendees: Michael J. Birsic Sherry L. Hesselbein (by phone) Timothy J. Peterkoski Scott A. Haney From: Burton, Tamika [burton.tamika@epa.gov]

Sent: 4/30/2018 2:33:02 PM

To: lwyak@yahoo.com; msquared615@aol.com; Vmcwhorter@smithpachter.com; lauren.tabbara@gmail.com;

jcoghlan@gmail.com; jak1201@hotmail.com; Dave.Zook@faegrebd.com; Mary.Bono@faegrebd.com;

Josh. And rews @ fae grebd. com; Darrin. Munoz @ fae grebd. com; Brandon. Kirkham @ fae grebd. com; Brandon. com; Brand

Ted.Bristol@faegrebd.com; Frank.Swain@faegrebd.com; Debra.Lappin@faegrebd.com; David.Gogol@faegrebd.com; Skip.Stitt@faegrebd.com; Michael.Adelberg@faegrebd.com;

Libby.Baney@faegrebd.com; Kevin.Brennan@faegrebd.com; Hope.Costa@faegrebd.com;

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[mnellenbach@bpcaction.org]; Andrews, Joshua L. [Joshua.Andrews@FaegreBD.com]; Matthew Hite

[mhite@gpamidstream.org]

Subject: Reminder: Please RSVP - EPA Deputy Administrator's Ceremonial Swearing-In

Location: Green Room

Start: 5/4/2018 3:00:00 PM

CC:

End: 5/4/2018 4:30:00 PM

Show Time As: Tentative

EPA Guests and Colleagues,

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Guests – please arrive 20mins before the ceremony to: 1200 Pennsylvania Avenue Northwest Washington DC 20460 – You will enter the William Jefferson Clinton North(WJC) building. You will check in and go through the security screening, please present your ID to the security officer and they will notify your guide of your arrival and we will escort you to the ceremonial suite.

Appointment

From: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Sent: 4/27/2017 10:47:57 AM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; 'Birsic, Michael J. (MPC)' [mjbirsic@marathonpetroleum.com];

Dravis, Samantha [dravis.samantha@epa.gov]

Subject: RF w/Michael **Location**: 3415 WJC North

Start: 4/27/2017 1:30:00 PM **End**: 4/27/2017 2:30:00 PM

Show Time As: Tentative

EPA Logistics Overview

May 9, 2017 Fred Walas, PE

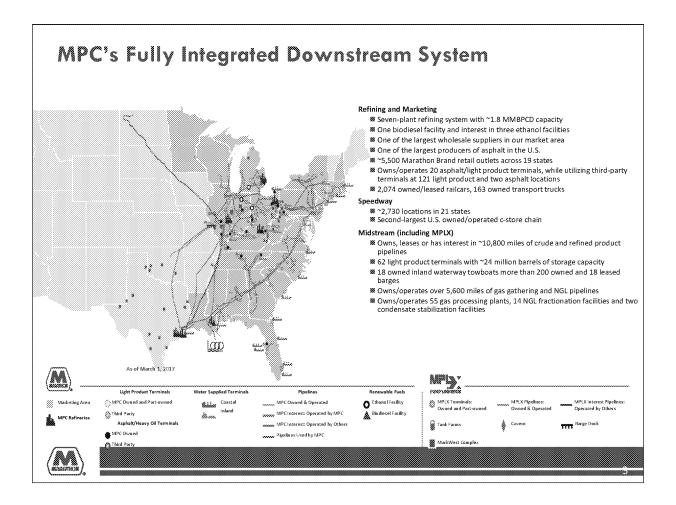




MPC Overview

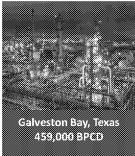


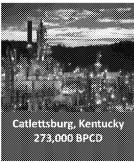


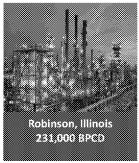


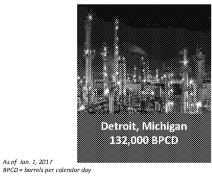
Rated Crude Oil Refining Capacity ■ System capacity: 1,817,000 BPCD

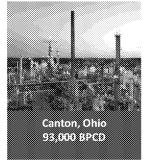
















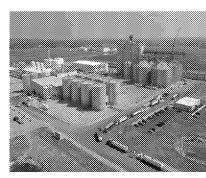
Renewable Fuels

Corn Ethanol Plants

- * 67% equity interest* in Greenville, Ohio
 - 110 MM gallon/year capacity
- * 61.1% equity interest in Clymers, Indiana
 - -- 110 MM gallon/year capacity
- * 44.7% equity interest in Albion, Michigan
 - 55 MM gallon/year capacity
- The Andersons Inc. operates the plants and provides all the facility services

Biodiesel Refinery

- * 100% owner in Cincinnati, Ohio
- ≈ ~60 MM gallon/year capacity
- Generates ~90 MM RINs per year
- Supplied by both truck and rail, with river access in close proximity



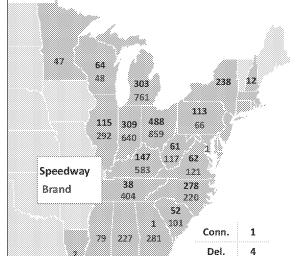


Direct and indirect



8





Mass.

N.J. R.I. 114 72

20



Speedway

- Largest company-owned and operated c-store chain east of the Mississippi
- ₩ ~2,730 locations in 21 states

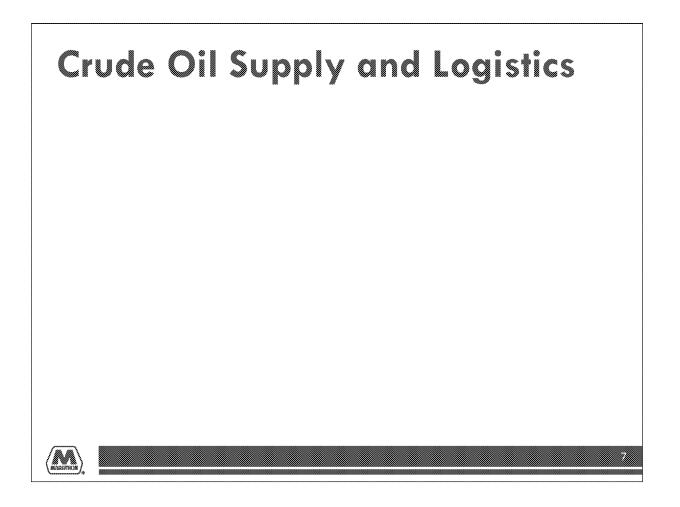


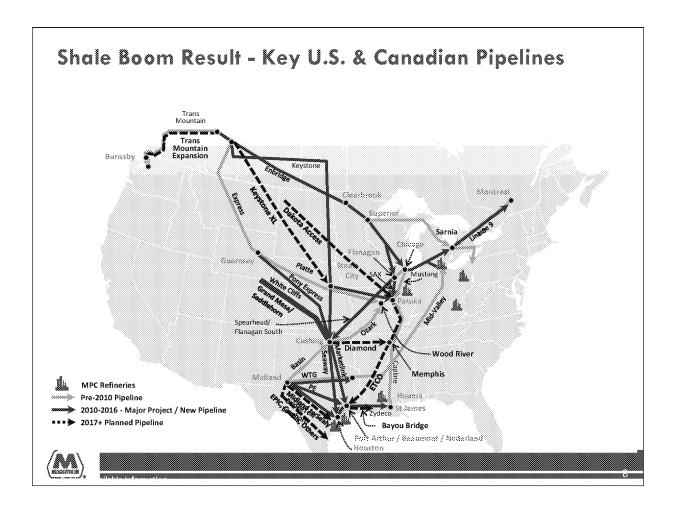
Marathon Brand

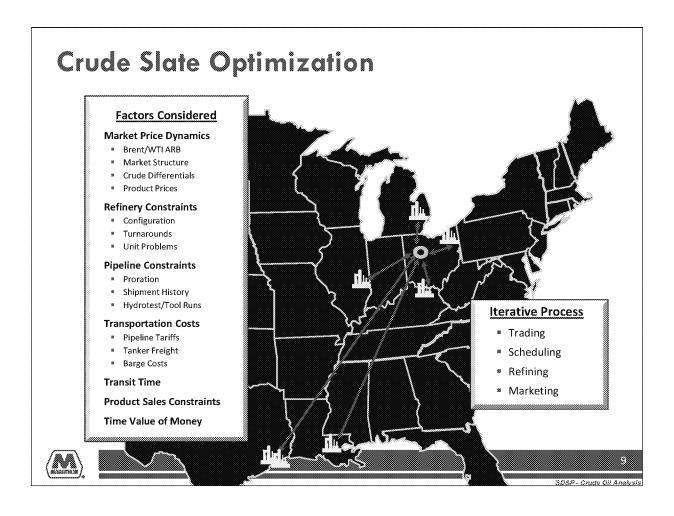
- **™** ~5,500 branded locations
- One of the largest asphalt marketers in the country
- Quality supplier into wholesale and secondary product markets



.....







Trivia Questions

- What were the top 5 oil producing countries in the world in **2016**?
 - 1. Russia (10.6 MMBD)
 - 2. Saudi Arabia (10.5 MMBD)
 - 3. United States (8.9 MMBD)
 - 4. Iraq (4.5 MMBD)
 - 5. Iran (4.0 MMBD)
- What is the projected top 5 oil producing countries in 2020?
 - 1. Saudi Arabia (10.5 MMBD)
 - 2. Russia (10.4 MMBD)
 - 3. United States (10.2 MMBD)
 - 4. Iraq (4.5 MMBD)
 - 5. China (4.1 MMBD)

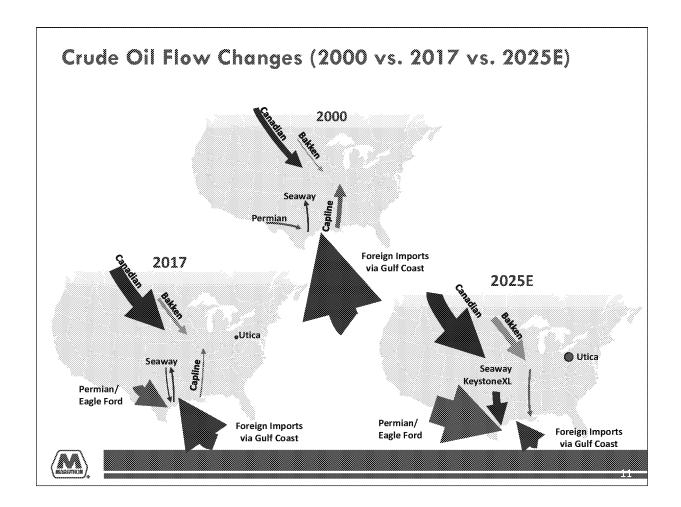


Source: EIA, IEA

10

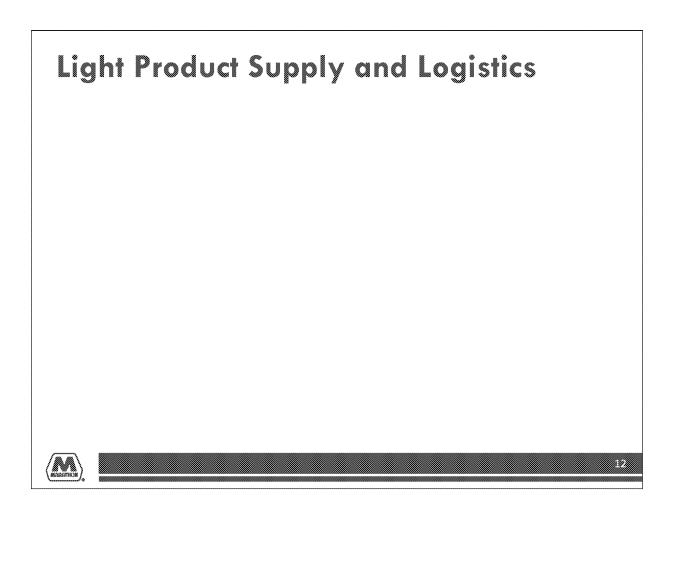
D&P - Crude Oll Analysi

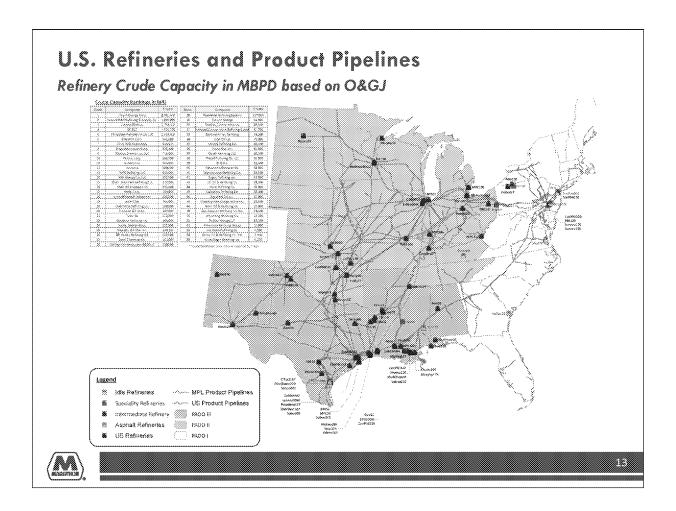
http://www.eia.gov/cfapps/ipdbproject/iedindex3.cfm?tid=5&pid=57&aid=1&cid=all,&syid=2000&eyid=2013&unit=TBPD



Jim

- One way to visualize these changes is to show how it has changed overall crude flows
- In 2000, the US was primarily supplied through foreign imports and the midwest was fed by pipelines running north.
- *Click* With the growth in domestic and Canadian production, foreign imports have begun to back out.
- Furthermore, the Seaway pipeline reversal *Click* represents this fundamental shift in crude flows.
- *Click* Forecasting out to 2020, we can see the increased role North American crude oil has in driving down foreign imports.

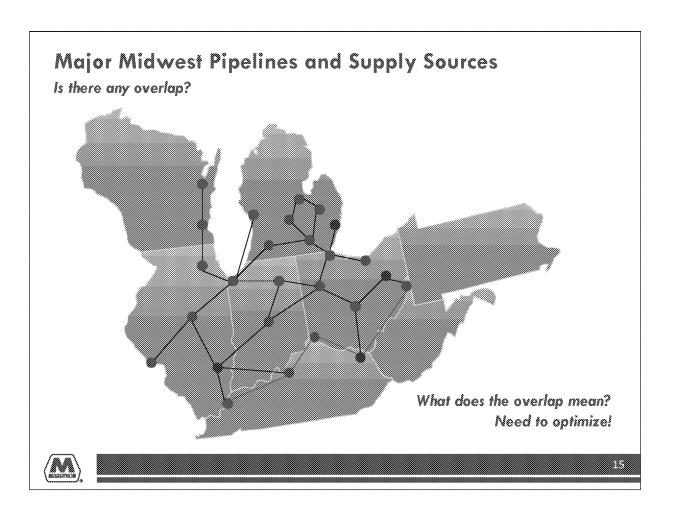


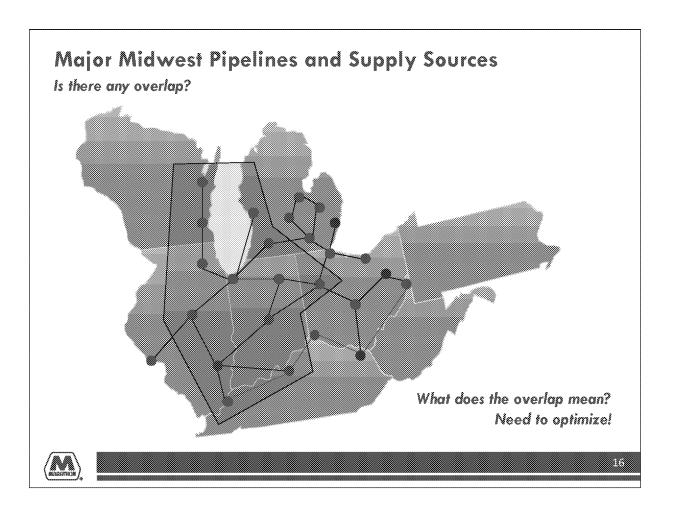


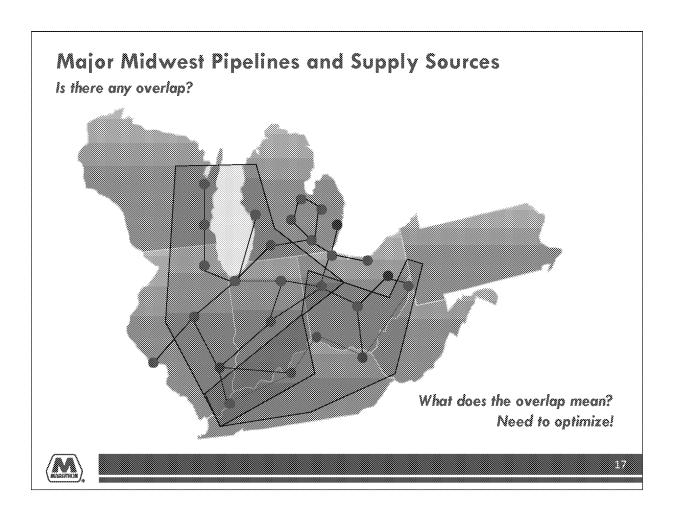
Product Movement Information

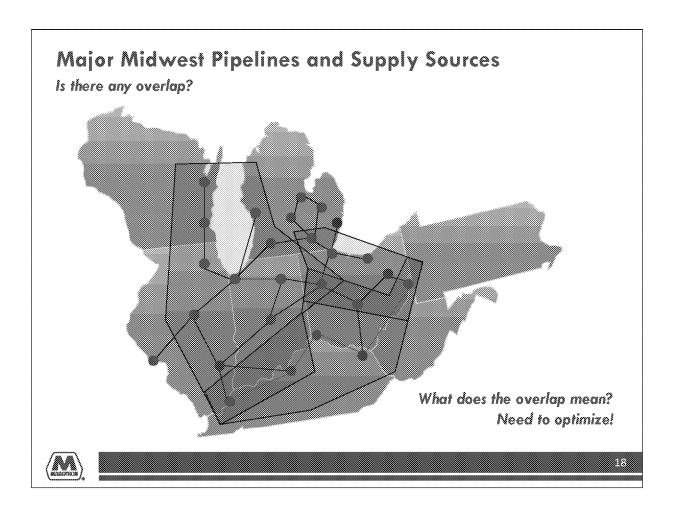
Mode of Transport	Est. Capacity MBPB	Cycle Time in Days	Transit Time in Days Minimum	Transit Time in Days Maximum
Buckeye Pipeline	100	7	8.5 (Linden, NJ to Neville Island PA)	Varies
Explorer Pipeline	640	10	9 (GC to Wood River)4 (Wood River to Chicago)	25 (GC to Wood River) 24 (Wood River to Chicago)
Enterprise Pipeline	380	10	23 (GC to Indy) 24 (GC to Griffith) 25 (GC to Lebanon)	Varies
Barge	Varies	N/A	16 (GC to Louisville)	18

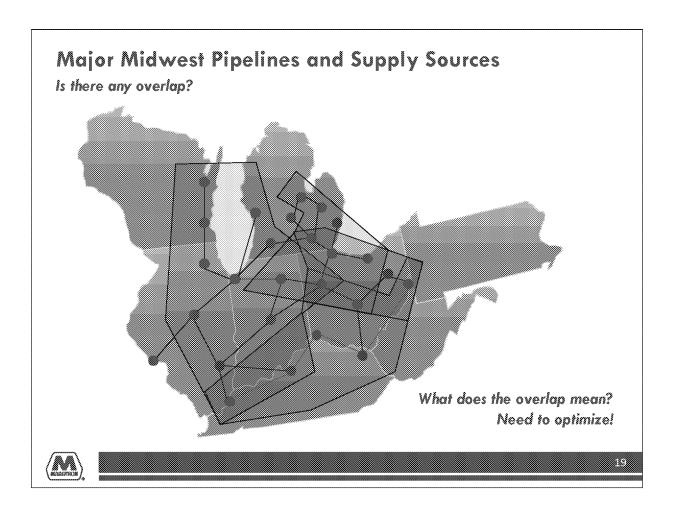


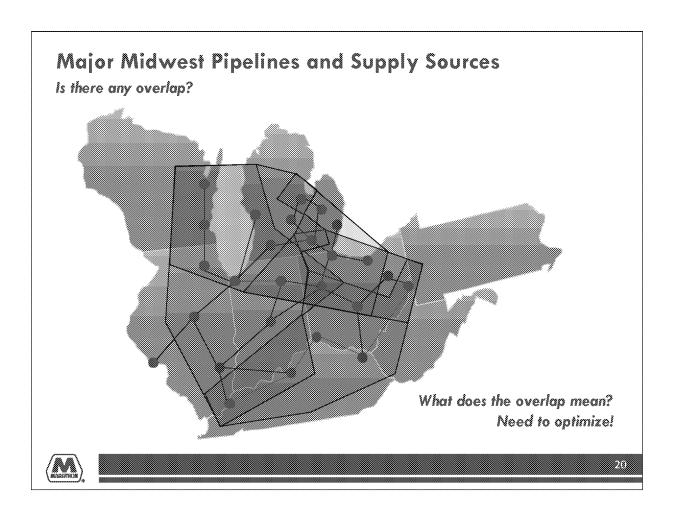




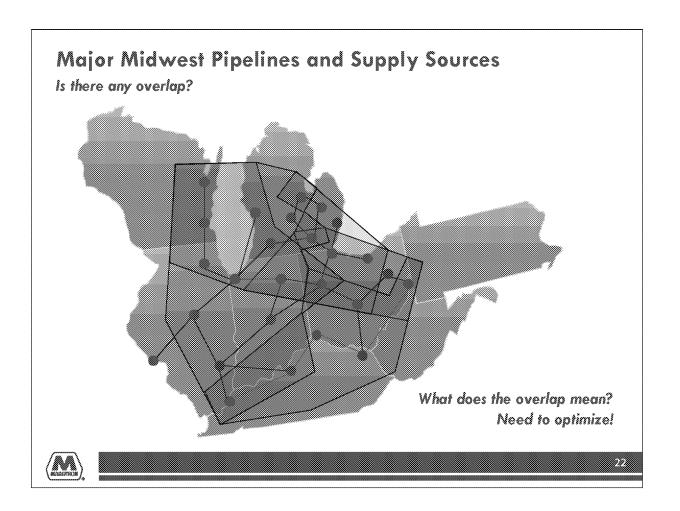








Material Balance: Supply = Demand Supply ■ Refinery Production	Demand ■ Sales		
Purchases	■ Inventory Builds		
■ Inventory Draws	Shipments to Gulf Coast		
Shipments from Gulf Coast			



From: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Sent: 7/31/2017 5:13:55 PM

To: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]; Bolen, Brittany [bolen.brittany@epa.gov]; Dravis,

Samantha [dravis.samantha@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]

CC: Beeman, Guy M. (MPC) [gmbeeman@marathonpetroleum.com]

Subject: RE: Potential Options for 2016 Volumes in Remanded Rulemaking

Thank you for the information.

Best, Mandy

From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]

Sent: Monday, July 31, 2017 8:38 AM

To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Dravis, Samantha

<dravis.samantha@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>

Cc: Beeman, Guy M. (MPC) <gmbeeman@marathonpetroleum.com> **Subject:** Potential Options for 2016 Volumes in Remanded Rulemaking

Good morning everyone,

I hope you are doing well. I would say happy recess, but I have a feeling August doesn't mean the same to you all as it used too.

Following the court's decision on the general waiver authority, our Group Counsel for Environment, Safety and Security Law put together a list of options for the EPA to keep the current 2016 volumes in the remanded rulemaking. I just wanted to pass along those options for your review as you are going through the process.

Please let us know if you have any questions, or would like to get on the phone or have our attorney come to DC for further discussion on this topic.

Mike

As outlined in the bullets below, EPA has options for keeping the current 2016 volumes in the remanded rulemaking.

- In 2016, EPA waived the cellulosic volume by 4.06 billion gallons. Per statute, EPA may then waive the advanced biofuel and total renewable fuel volumes up to 4.06 billion gallons. EPA, however, waived only 3.64 billion gallons of the advanced biofuel and total renewable fuel volumes under its cellulosic waiver authority. On remand, if EPA uses all of the cellulosic waiver amount to reduce the advanced biofuel and total renewable fuel volumes, then EPA would need to waive only 0.12 billion gallons under its general waiver authority to maintain the current 2016 volumes.
- EPA could use the "severe economic harm" provision under the general waiver authority to reduce the 2016 volumes. In fact, the court noted, "To the extent that application of the statutory volume requirements may lead to negative economic effects, we note that such effects could be addressed through other provisions of the statute."
- The court said that EPA had applied "inadequate domestic supply" incorrectly, not that EPA was foreclosed from using the "inadequate domestic supply" waiver. Thus, EPA could consider the supply-side constraints (particularly now that 2016 has passed) in reducing the 2016 volumes.
- Because the new final rule will now be issued after 2016, and past the statutory deadline, EPA may be able to apply its approach in setting the 2014 and 2015 volumes when setting the 2016 volumes on remand. As this court decided

later in its opinion, EPA may promulgate late renewable fuel requirements so long as EPA reasonably considers and mitigates any hardship caused to obligated parties. Given the time necessary to propose and finalize a new rule, the 2016 volumes will be very_late. Setting the volumes at any amount other than those currently established would be a hardship to obligated parties.

• Also worth noting, the court held that EPA is not required to consider carryover RINs as a supply source of renewable fuel for purposes of determining the supply of renewable fuel available in a given year. Thus, EPA will not be required to consider carryover or banked RINs in re-issuing the 2016 volumes.

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004 Direct: 202-442-2459

Cell: 202-213-2548 Fax: 202-442-2492

 $\underline{mjbirsic@marathonpetroleum.com}$

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 5/11/2017 1:43:36 PM

To: Dravis, Samantha [dravis.samantha@epa.gov]

Subject: Detroit Refinery and Findlay HQ Visit Follow up

Samantha,

Thank you very much for your time this week to speak with us on refining logistics and the RIN flow through. I am sure you guys have heard more than enough of your share on the RFS and point of obligation issue in the short time you have been at the job.

I wanted to follow up with you on the potential to visit our refinery in Detroit and then our headquarters in Findlay, OH. I know you all are extremely busy and may not be available for a while, but just wanted again extend the invitation. Please just let us know when you want to visit and we will make it happen.

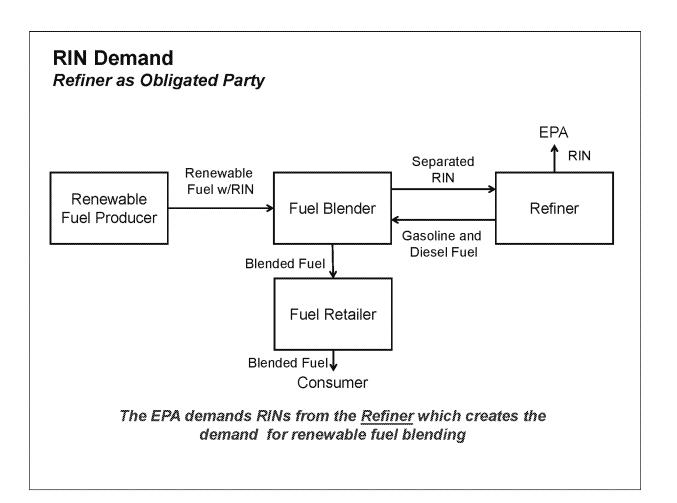
Again, appreciate your time this week and hope to speak to you again.

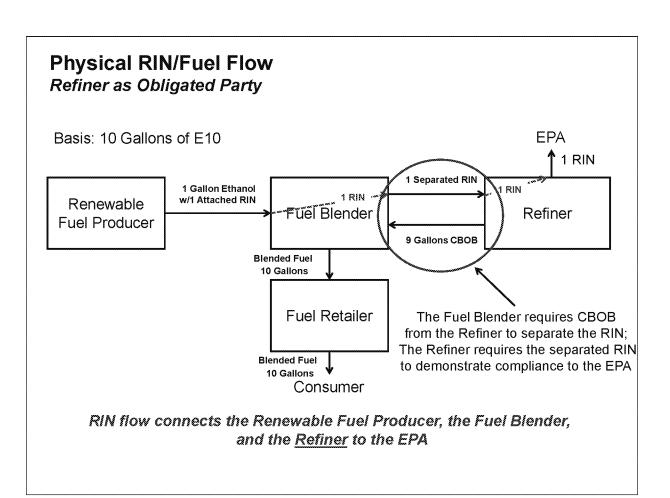
Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004

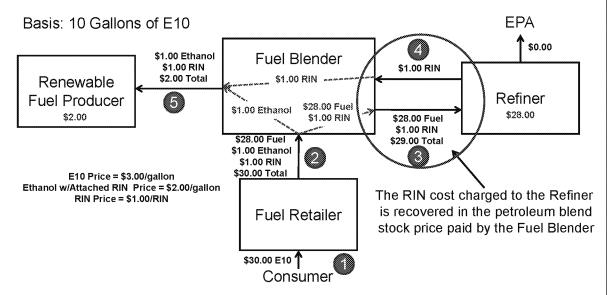
Direct: 202-442-2459 Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com





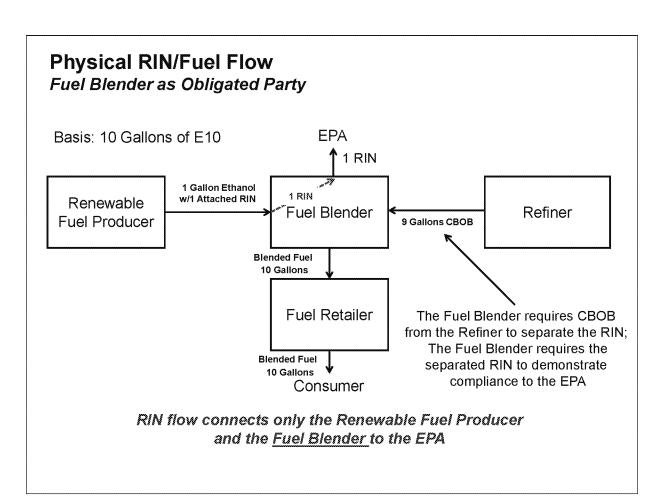
RIN Value Flow Refiner as Obligated Party

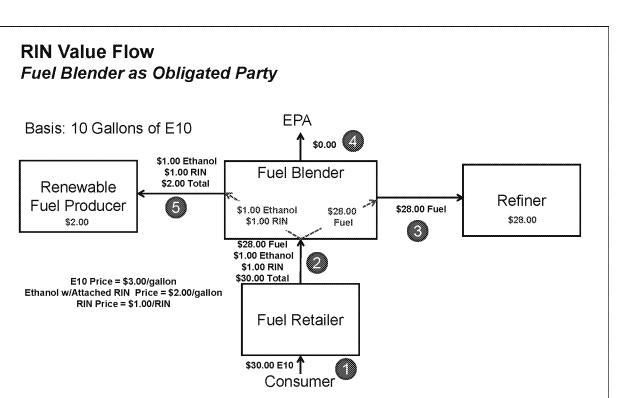


RIN Pass Through Sequence Refiner as Obligated Party

Step#	Value Flow	Physical Flow	Comments
1	Consumer pays total fuel cost to Fuel Retailer	Consumer receives blended fuel from Fuel Retailer	Total fuel cost includes the cost of the petroleum fuel blend stock, ethanol, and the RIN
2	Fuel Retailer passes total fuel cost to Fuel Blender	Fuel Retailer receives blended fuel from Fuel Blender	Fuel Retailer passes through the RIN value to the Fuel Blender
3	Fuel Blender pays petroleum fuel blend stock and RIN cost to Refiner	Fuel Blender receives petroleum fuel blendstock from Refiner	Refiner receives the petroleum fuel blendstock value
4	Refiner pays RIN cost to Fuel Blender	Refiner receives RIN from Blender	Refiner remits RIN to the EPA
5	Fuel Blender pays ethanol and RIN cost to Renewable Fuel Producer	Fuel Blender receives ethanol with attached RIN	Renewable Fuel Blender receives the ethanol value and the RIN value (as a subsidy)

RIN Demand Fuel Blender as Obligated Party **EPA** Separated RIN Renewable Fuel w/RIN Renewable Fuel Blender Refiner Fuel Producer Gasoline and Diesel Fuel Blended Fuel Fuel Retailer Blended Fuel Consumer The EPA demands RINs from the Fuel Blender which creates the demand for renewable fuel blending





RIN Pass Through Sequence Fuel Blender as Obligated Party

Step #	Value Flow	Physical Flow	Comments
1	Consumer pays total fuel cost to Fuel Retailer	Consumer receives blended fuel from Fuel Retailer	Total fuel cost includes the cost of the petroleum fuel blend stock, ethanol, and the RIN
2	Fuel Retailer passes total fuel cost to Fuel Blender	Fuel Retailer receives blended fuel from Fuel Blender	Fuel Retailer passes through the RIN value to the Fuel Blender
3	Fuel Blender pays petroleum fuel blend stock to Refiner	Fuel Blender receives petroleum fuel blendstock from Refiner	Refiner receives the petroleum fuel blendstock value
4	No RIN value flows to the EPA	Fuel Blender remits RIN to the EPA	
5	Fuel Blender pays ethanol and RIN cost to Renewable Fuel Producer	Fuel Blender receives ethanol with attached RIN	Renewable Fuel Producer receives the ethanol value and the RIN value (as a subsidy)

RIN Pass Through Sequence Comparison

	Refiner Obligated	Biender Obligated	Comments
Consumer	Consumer pays total fuel cost to Fuel Retailer	Consumer pays total fuel cost to Fuel Retailer	No Physical Impact No RIN Value Impact
Fuel Retailer	Fuel Retailer passes total fuel cost to Fuel Blender	Fuel Retailer passes total fuel cost to Fuel Blender	No Physical Impact No RIN Value Impact
Fuel Blender	Fuel Blender pays petroleum fuel blend stock plus RIN cost to Refiner and ethanol and RIN cost to Renewable Fuel Producer	Fuel Blender pays petroleum fuel blend stock cost to Refiner and ethanol and RIN cost to Renewable Fuel Producer	No Net Physical Impact No Net RIN Value Impact
	Fuel Blender separates physical RIN	Fuel Blender separates physical RIN	
	Fuel Blender receives RIN Value from Refiner in exchange for physical RIN	Fuel Blender remits RIN to EPA	
Refiner	Refiner supplies petroleum fuel blendstock and receives petroleum blendstock value plus RIN value	Refiner supplies petroleum fuel blendstock and receives petroleum fuel blendstock value	No Net Physical Impact No Net RIN Value Impact
	Refiner pays RIN value to Fuel Blender in exchange for physical RIN		
	Refiner remits RIN to EPA		
Renewable Fuel Producer	Renewable Fuel Producer supplies ethanol with attached RIN and receives ethanol and RIN value	Renewable Fuel Producer supplies ethanol with attached RIN and receives ethanol and RIN value	No Physical Impact No RIN Value Impact

From: Beeman, Guy M. (MPC) [gmbeeman@marathonpetroleum.com]

Sent: 5/25/2017 8:06:48 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Dravis, Samantha [dravis.samantha@epa.gov]

Subject: Re: Middle TN RVP Ruling

Flag: Follow up

Good afternoon,

Sorry to bug you on this again, but just trying to find some guidance on timing of a decision. If you could point me in the right direction I would be greatly appreciative.

Thanks,

Guy

Sent from my iPhone

On May 19, 2017, at 8:32 AM, Beeman, Guy M. (MPC) <gmbeeman@marathonpetroleum.com> wrote:

Good morning Mandy and Samantha,

I am hoping you two can help me out or point me in the right direction. The comment period for the State of Tennessee's request to the EPA to relax the low RVP requirement for Middle TN closed on May 12 and we are trying to figure out the timing of an EPA decision. With the summer driving season starting on June 1, we are need to make supply decisions now as it takes time to get supply into the various markets. Any guidance on timing on a decision will be extremely helpful. Our supply folks have to make decisions today whether to bring in the lower RVP product or the higher RVP into Middle TN, which the difference between the two is very costly.

	appr	ecia	te yo	ur I	nel	p.
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Thanks,

Guy

Guy Beeman, Jr.

Representative, Federal Government Affairs
Marathon Petroleum Corporation
202-442-2458 direct
202-733-0485 cell
gmbeeman@marathonpetroleum.com
1201 F. Street NW #625
Washington, DC 20004

From: Corrigan, Sheryl [Sheryl.Corrigan2@kochind.com]

Sent: 1/20/2017 1:22:56 AM

To: Grundler, Christopher [grundler.christopher@epa.gov]

CC: Stewart, Gwen [Stewart.Gwen@epa.gov]

Subject: RE: New Year

Sounds great. Thanks Chris.

Sent with Good (www.good.com)

From: Grundler, Christopher <grundler.christopher@epa.gov>

Sent: Thursday, January 19, 2017 7:10:53 PM

To: Corrigan, Sheryl
Cc: Stewart, Gwen
Subject: Re: New Year

Sent by an external sender

Hi Sheryl-

Nice to hear from you. As you can imagine, my calendar is very unpredictable these days, so I am not sure if I will be in DC or in Ann Arbor that week. If I am in DC on those days I am sure we can work something out. I suggest contacting Gwen the week before and she will know the score.

Best, Chris

Christopher Grundler, Director
Office of Transportation and Air Quality
U.S. Environmental Protection Agency
202/564-1682 (Washington DC)
734/214-4207 (Ann Arbor MI)

On Jan 19, 2017, at 3:26 PM, Corrigan, Sheryl < Sheryl Corrigan 2@kochind.com > wrote:

Hi Chris-

I hope this new year finds you and your family healthy and happy. I am going to be in DC February 13-14th, and would love to grab a cup of coffee with you if you have time. No agenda—just would like to catch up. Let me know, and I'll set it up.

Thanks—and all the best to you and yours.

From: Tim Hogan [THogan@afpm.org]

Sent: 9/15/2017 5:40:11 PM

To: Dunham, Sarah [Dunham.Sarah@epa.gov]

CC: Richard Moskowitz [rmoskowitz@afpm.org]; Grundler, Christopher [grundler.christopher@epa.gov]; Charmley,

William [charmley.william@epa.gov]; Machiele, Paul [machiele.paul@epa.gov]

Subject: Corrected AFPM letter on 2017 Biodiesel Supply **Attachments:** EPA ltr re ITC BBD decision 091517 corrected.pdf

Corrected letter is attached. Tim

From: Tim Hogan

Sent: Friday, September 15, 2017 9:48 AM

To: 'dunham.sarah@epa.gov' <dunham.sarah@epa.gov>

Cc: Richard Moskowitz (RMoskowitz@afpm.org) <RMoskowitz@afpm.org>; 'grundler.christopher@epa.gov' <grundler.christopher@epa.gov>; 'charmley.william@epa.gov' <charmley.william@epa.gov>; Machiele, Paul

<machiele.paul@epa.gov>

Subject: AFPM letter on 2017 Biodiesel Supply

Attached are AFPM concerns about biodiesel supply this year.

Tim Hogan

Director, Motor Fuels

American

Fuel & Petrochemical

Manufacturers

1667 K Street NW

Suite 700

Washington, DC 20006 202,457,0480 office

202.552.8462 direct

202.457 0486 fax

THogan@afpm.org

Learn more about AFPM at afpm.org

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Richard Moskowitz
General Counsel

American
Fuel & Petrochemical
Manufacturers

1667 K Street, NW Suite 700 Washington, DC 20006

September 15, 2017

202.457.0480 office 202.552.8474 direct 202.457.0486 fax Rmoskowitz@afpm.org

Ms. Sarah Dunham Acting Assistant Administrator for Air and Radiation U.S. Environmental Protection Agency 1200 Pennsylvania Ave., N.W. Washington, D.C. 20004

RE: Biodiesel Supply in 2017

Dear Ms. Dunham:

The American Fuel & Petrochemical Manufacturers ("AFPM")¹ writes to alert you to a potential shortfall of biodiesel in light of an investigation and preliminary determinations by the International Trade Commission ("ITC") and the Department of Commerce concerning challenges to the foreign subsidization of biodiesel imported from Argentina and Indonesia.

The Renewable Fuel Standard ("RFS") was implemented through two statutes. The first ("RFS1") was included in the Energy Policy Act of 2005 ("EPACT"). Two years later, Congress enacted the Energy Independence and Security Act of 2007 ("EISA"), which significantly expanded the RFS ("RFS2") by adding diesel to the obligation and increasing the renewable fuel consumption requirements to 36 billion gallons in 2022.³

The RFS2 included four "nested" mandates. Of the 36 billion gallons in total renewable fuel specified for 2022, 21 billion gallons were intended to be comprised of advanced biofuel. Of this amount, EISA further specified that 16 billion gallons of advanced biofuel should be comprised of cellulosic biofuel. EISA also established a specific mandate for biomass-based diesel ("BBD") and specified that a minimum of 1 billion gallons be used in 2012 and thereafter. The remaining applicable volume of renewable fuel – 15 billion gallons out of the total 36 billion gallons – is to be satisfied using any qualifying renewable fuel, including "conventional biofuel," or renewable fuel that is ethanol derived from corn starch.

The RFS rule for 2017 requires 2.0 billion gallons of BBD (3.0 billion RINs). The nation appears to be on track (through July) to comply with this aspect of the mandate; however, market

¹ AFPM is a trade association representing high-tech American manufacturers of virtually the entire U.S. supply of gasoline, diesel, jet fuel, other fuels and home heating oil, as well as the petrochemicals used as building blocks for thousands of vital products in daily life.

² Energy Policy Act of 2005, Pub. L. No. 109-58 (2005).

³ Energy Independence and Security Act of 2007, Pub. L. No. 110-140 (2007), codified at 42 U.S.C. §7545(o).



BBD Supply Concerns September 15, 2017 Page 2 of 3

realities are changing and AFPM is concerned about a potential shortfall in the supply of BBD available for compliance.

As you may know, the Department of Commerce and the ITC are conducting unfair trade investigations concerning imports of biodiesel from Argentina and Indonesia.⁴ These investigations have created considerable uncertainty over future imports of biodiesel. On August 22, 2017, the Department of Commerce announced a preliminary affirmative determination in the countervailing duty investigations into biodiesel imported from Argentina and Indonesia.⁵ The Department of Commerce determined "that exporters of biodiesel from Argentina and Indonesia received countervailable subsidies of 50.29 to 64.17 percent and 41.06 to 68.28 percent, respectively." The Department of Commerce also found that "critical circumstances" exist that justify the collection of duties retroactively. These circumstances combine to create a risk that there will be a shortage of renewable biofuel available to meet the 2017 standards. Indeed, Reuters reported that in the wake of this preliminary determination, Argentinian biodiesel exports to the United States would cease.⁶

At the same time, a dispute before the World Trade Organization concerning the European Union's ("EU") imposition of anti-dumping duties on Argentinian biodiesel could also have implications for U.S. biodiesel imports. The combination of new U.S. duties and lower EU duties on Argentinian biodiesel could shift supplies of biodiesel away from the U.S.⁷ This is significant because imports of biodiesel represent about 30% of 2017 BBD RINs generated through June.⁸

If imports decline in future months of 2017, we are uncertain that higher domestic production will adequately address the shortfall, especially in the absence of the federal biodiesel tax credit. Moreover, in prior years the amount of biodiesel consumed exceeded the RFS mandate and was used to fulfill the other nested mandates.

Given these market developments and the RFS compliance uncertainties they portend, AFPM requests that EPA continue to monitor EMTS entries, shipping data reflecting scheduled

⁴ To view a Department of Commerce fact sheet:

http://ia.ita.doc.gov/download/factsheets/factsheet-multiple-biodiesel-ad-cvd-initiation-041317.pdf To view an announcement:

https://www.gpo.gov/fdsys/pkg/FR-2017-04-19/pdf/2017-07901.pdf

⁵ https://www.commerce.gov/news/press-releases/2017/08/us-department-commerce-issues-affirmative-preliminary-countervailing-1

⁶ See https://in.finance.yahoo.com/news/u-finds-argentine-indonesian-biodiesel-200226922.html
(Argentine biodiesel association Carbio stated "The compensatory duties imposed result in an immediate stoppage of sales to the United States ").

⁷ https://www.reuters.com/article/us-eu-biodiesel-idUSKBN1AC2A3

⁸ In addition, last year was very similar: domestic production contributed 71% of biomass-based diesel RINs in 2016; over 1.1 billion biomass-based diesel RINs were imported in 2016. *See* EPA EMTS.



BBD Supply Concerns September 15, 2017 Page 3 of 3

imports, and other information relevant to the supply of BBD available for compliance, and be prepared to address any renewable fuel supply shortfalls. If supply shortages materialize, EPA may need to issue a supplemental waiver in 2017 for BBD and the impacted nested renewable fuel categories.

* * * *

Thank you in advance for your attention to this matter. AFPM stands ready to assist you in addressing this important RFS matter. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

Richard Moskowitz

cc: Chris Grundler William Charmley Paul Machiele

From: Tim Hogan [THogan@afpm.org]

Sent: 9/15/2017 1:48:15 PM

To: Dunham, Sarah [Dunham.Sarah@epa.gov]

CC: Richard Moskowitz [rmoskowitz@afpm.org]; Grundler, Christopher [grundler.christopher@epa.gov]; Charmley,

William [charmley.william@epa.gov]; Machiele, Paul [machiele.paul@epa.gov]

Subject: AFPM letter on 2017 Biodiesel Supply **Attachments**: EPA ltr re ITC BBD decision 091517.pdf

Attached are AFPM concerns about biodiesel supply this year.

Tim Hogan

Director, Motor Fuels

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Fuel & Petrochemical
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Richard Moskowitz
General Counsel

American
Fuel & Petrochemical
Manufacturers

1667 K Street, NW Suite 700 Washington, DC 20006

September 15, 2017

202.457.0480 office 202.552.8474 direct 202.457.0486 fax Rmoskowitz@afpm.org

Ms. Sarah Dunham Acting Assistant Administrator for Air and Radiation U.S. Environmental Protection Agency 1200 Pennsylvania Ave., N.W. Washington, D.C. 20004

RE: Biodiesel Supply in 2017

Dear Ms. Dunham:

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² Energy Policy Act of 2005, Pub. L. No. 109-58 (2005).

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BBD Supply Concerns September 15, 2017 Page 2 of 3

realities are changing and AFPM is concerned about a potential shortfall in the supply of BBD available for compliance.

As you may know, the Department of Commerce and the ITC are conducting unfair trade investigations concerning imports of biodiesel from Argentina and Indonesia.⁴ These investigations have created considerable uncertainty over future imports of biodiesel. On August 22, 2017, the Department of Commerce announced a preliminary affirmative determination in the countervailing duty investigations into biodiesel imported from Argentina and Indonesia.⁵ The Department of Commerce determined "that exporters of biodiesel from Argentina and Indonesia received countervailable subsidies of 50.29 to 64.17 percent and 41.06 to 68.28 percent, respectively." The Department of Commerce also found that "critical circumstances" exist that justify the collection of duties retroactively. These circumstances combine to create a risk that there will be a shortage of renewable biofuel available to meet the 2017 standards. Indeed, Reuters reported that in the wake of this preliminary determination, Argentinian biodiesel exports to the United States would cease.⁶

At the same time, a dispute before the World Trade Organization concerning the European Union's ("EU") imposition of anti-dumping duties on Argentinian biodiesel could also have implications for U.S. biodiesel imports. The combination of new U.S. duties and lower EU duties on Argentinian biodiesel could shift supplies of biodiesel away from the U.S.⁷ This is significant because imports of biodiesel represent about 30% of 2017 BBD RINs generated through June.⁸

If imports decline in future months of 2017, we are uncertain that higher domestic production will adequately address the shortfall, especially in the absence of the federal biodiesel tax credit. Moreover, in prior years the amount of biodiesel consumed exceeded the RFS mandate and was used to fulfill the other nested mandates.

Given these market developments and the RFS compliance uncertainties they portend, AFPM requests that EPA continue to monitor EMTS entries, shipping data reflecting scheduled

⁴ To view a Department of Commerce fact sheet:

http://ia.ita.doc.gov/download/factsheets/factsheet-multiple-biodiesel-ad-cvd-initiation-041317.pdf To view an announcement:

https://www.gpo.gov/fdsys/pkg/FR-2017-04-19/pdf/2017-07901.pdf

⁵ https://www.commerce.gov/news/press-releases/2017/08/us-department-commerce-issues-affirmative-preliminary-countervailing-1

⁶ See https://in.finance.yahoo.com/news/u-finds-argentine-indonesian-biodiesel-200226922.html
(Argentine biodiesel association Carbio stated "The compensatory duties imposed result in an immediate stoppage of sales to the United States ").

⁷ https://www.reuters.com/article/us-eu-biodiesel-idUSKBN1AC2A3

⁸ In addition, last year was very similar: domestic production contributed 71% of biomass-based diesel RINs in 2016; over 1.1 billion biomass-based diesel RINs were imported in 2016. *See* EPA EMTS.



BBD Supply Concerns September 15, 2017 Page 3 of 3

imports, and other information relevant to the supply of BBD available for compliance, and be prepared to address any renewable fuel supply shortfalls. If supply shortages materialize, EPA may need to issue a supplemental waiver in 2017 for BBD and the impacted nested renewable fuel categories.

* * * *

Thank you in advance for your attention to this matter. AFPM stands ready to assist you in addressing this important RFS matter. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

Richard Moskowitz

cc: Chris Grundler William Charmley Paul Machiele

From: Richard Moskowitz [RMoskowitz@afpm.org]

Sent: 2/24/2017 9:57:20 PM

To: Dunham, Sarah [Dunham.Sarah@epa.gov]

CC: Grundler, Christopher [grundler.christopher@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]

Subject: Request for Extension - 2016 RFS compliance date

Attachments: 2016 RFS request to delay compliance 022417 final.pdf

Attached please find AFPM's request to postpone the 2016 Renewable Fuel Standard compliance date. A delayed compliance date is needed to avoid having to purchase cellulosic waiver credits (and EPA having to issue refunds) while litigation on the subject remains pending. Postponement of the compliance date would have no impact on the current or future production of biofuels.

Richard Moskowitz General Counsel

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Learn more about AFPM at afpm.org

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February 24, 2017

Ms. Sarah Dunham Office of Air & Radiation Environmental Protection Agency 1200 Pennsylvania Avenue, N.W. Washington, DC 20460

RE: Request to Delay 2016 RFS Compliance Date

The American Fuel & Petrochemical Manufacturers (AFPM) requests that the Environmental Protection Agency (EPA) postpone the date for compliance with the 2016 Renewable Fuel Standard (RFS).

AFPM members produce virtually all the refined petroleum products and petrochemicals manufactured in the United States and are obligated parties under the RFS. As you know, aspects of the 2016 RFS are the subject of litigation, including EPA's estimate of 2016 cellulosic biofuel production. AFPM members and EPA would waste significant resources demonstrating compliance with the 2016 RFS on March 31, 2017, rather than waiting to demonstrate compliance after conclusion of the litigation. In addition, several AFPM members do not have the requisite amount of cellulosic biofuel Renewable Identification Numbers (RINs) to comply with EPA's 2016 cellulosic mandate under the RFS and will be forced to purchase cellulosic waiver credits representing fuel that was never produced.

In December 2015, EPA promulgated the applicable volumetric requirements for various renewable fuels under the RFS for compliance years 2014-2016. This rulemaking established the mandated volume of cellulosic biofuel for 2016 at 230 million ethanol-equivalent gallons. In promulgating the final rule, EPA exercised its waiver authority to reduce the statutorily prescribed amount of cellulosic biofuel under the RFS from 4.25 billion gallons to 230 million gallons.

Based upon EMTS data suggesting that there would be a significant cellulosic biofuel shortfall, AFPM filed a petition for a supplemental waiver on December 28, 2016.² This shortfall in cellulosic production would require many AFPM members to pay what amounts to a penalty in the form of purchasing cellulosic waiver credits from EPA for EPA's overestimate of the amount of cellulosic biofuel produced in 2016. On January 17, 2017, EPA denied AFPM's petition. AFPM intends to petition the agency for reconsideration of its denial.

¹ See 80 Fed. Reg. 77420 (December 14, 2015).

² EPA's recently issued February EMTS summary shows only 190.1 million gallons of cellulosic biofuel RINs were produced in 2016. This is well short of the 2016 RFS cellulosic biofuel standard of 230 million gallons.



AFPM Request for Delayed Compliance February 24, 2017 Page 2 of 3

AFPM's petition for reconsideration and the litigation challenging EPA's 2016 cellulosic methodology remain pending; however, the 2016 RFS compliance reports and the requirement to purchase cellulosic waiver credits are due by March 31, 2017.³ This leaves insufficient time for EPA to address the petition for reconsideration before obligated parties must determine their compliance and deficits for 2016 and potentially purchase 2016 cellulosic waiver credits.

If EPA does not delay the 2016 compliance deadline, obligated parties will be forced to spend millions of dollars in March 2017 purchasing cellulosic waiver credits, as a result of the production of cellulosic biofuel falling far short of EPA's mandated amount. Forcing obligated parties to purchase cellulosic waiver credits for phantom fuels is a penalty tax that punishes obligated parties for a lack of production by their competitors. Such a penalty does not further the purposes of the RFS.

Further, EPA's deferral of the compliance deadline would provide an avenue for the federal government to avoid issuing refunds for the purchase of excess and unnecessary cellulosic waiver credits. In fact, we note that EPA is still trying to process refunds for credits that were purchased to comply with the 2011 cellulosic standard, following the D.C. Circuit's decision in *API v. EPA*, 706 F.3d 474 (D.C. Cir. 2013).

There is precedent for such a deferral. EPA delayed the 2013, 2014 and 2015 RFS compliance deadlines for obligated parties with no impact on either the amount of cellulosic biofuel that was produced during the affected compliance year or the incentive to produce cellulosic biofuels in future years.

Time is of the essence. Given the March 31st compliance date and the fact that the litigation and petition for reconsideration remain pending, we respectfully request that EPA expeditiously grant this request to delay the 2016 RFS compliance date. If you have any questions concerning the issues raised in this request, please contact the undersigned at (202) 552-8474.

Respectfully submitted,

Rubul Mulint

Richard Moskowitz

cc: Christopher Grundler

Kevin Minoli

³ See 40 CFR § 1451(a)(1).



AFPM Request for Delayed Compliance February 24, 2017 Page 3 of 3

From: Tim Hogan [THogan@afpm.org]
Sent: 11/22/2017 12:26:42 PM

To: Grundler, Christopher [grundler.christopher@epa.gov]; Charmley, William [charmley.william@epa.gov]; Machiele,

Paul [machiele.paul@epa.gov]; cwhiteman@omb Ex. 6 Personal Privacy (PP)

Subject: FW: 2018 RFS - biodiesel imports

Attachments: AFPM - U.S. Imports of Biodiesel (Sept 2017).pdf; EPA ltr re BBD imports 112117 FINAL.pdf

AFPM sent the attached letter to EPA yesterday, alerting the agency of the Department of Commerce's final determinations and transmitting September trade data showing no new imports of biodiesel from Argentina or Indonesia.

Tim Hogan Director, Motor Fuels

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U.S. Imports of B100 Biodiesel and Blends Containing Less Than 70% Petroleum or Bituminous Oils by Weight* Annual 2016 - YTD Sep 2017

						- U	antity (kilograms							
	Jan 16	Feb 16	Mar 16	Apr 16	May 16	Jun 16	Jul 16	Aug 16	Sep 16	Oct 16	Nov 16	Dec 16	YTD Sep 16	Ann 2016
Argentina	6,835,872	19,949,919	36,312,921	74,047,666	101,061,149	115,325,364	166,246,784	159,727,818	150,540,810	182,200,556	201,816,726	260,972,094	830,048,303	1,475,037,679
Indonesia	· · · -	· · · · -	17,324,524	29,840,760	37,732,972	59,787,618	33,075,963	45,028,787	51,252,039	33,385,309	52,745,395	9,500,916	274,042,663	369,674,283
Canada	22,710,936	10,564,848	28,137,990	33,503,972	28,354,915	33,315,170	29,202,121	37,463,084	38,210,085	21,233,704	23,461,600	52,415,509	261,463,121	358,573,934
Germany		400	9,570,052	16,400	, ,	,,	,,		9,100,040	9,229,281	19,874,359	34,760,853 I	18,686,892	82,551,385
Korea	_	-	-,,	7,503,680	_	6,984,316	8,095,764	16,044,013	-,,-	7,999,110	9,507,639	13,528,148	38,627,773	69,662,670
All Others	20	_	_	8,402,000	_	3,100	697,935	25,440	352,834	250,780	201,260	123,049	9,481,329	10,056,418
Total	29,546,828	30,515,167	91,345,487	153,314,478	167,149,036	215,415,568	237,318,567	258,289,142	249,455,808	254,298,740	307,606,979	371,300,569		2,365,556,369
	Jan 17	Feb 17	Mar 17	Apr 17	May 17	Jun 17	Jul 17	Aug 17	Sep 17	Oct 17	Nov 17	Dec 17	YTD Sep 17	% Chg YTD
Argentina	-	61,352,660	94,715,152	76,197,589	109,059,180	230,463,641	214,562,362	181,353,019	-	-	-	- 1	967,703,603	16.6%
Indonesia	-	-	-	-	_	-	60,000	-	-	-	-	- i	60,000	-100.0%
Canada	13,497,524	17,521,036	14,193,177	21,226,121	24,750,866	17,100,231	23,574,145	37,957,815	24,390,707	-	-	- i	194,211,622	-25.7%
Germany	_	-	_		-	-	-		-	_	-	- ;	, , , ₋	-100.0%
Korea		_	-	-		_	-	-	7,612,114	_	-	- 1	7,612,114	-80.3%
All Others	502,280	519,160	39,465	1,400	15,952	34,180	_	_	41,584	_	_	- '	1,154,021	-87.8%
Total	13,999,804	79,392,856	108,947,794	97,425,110	133,825,998	247,598,052	238,196,507	219,310,834	32,044,405	-	-	- 1	1,170,741,360	-18.3%
						Val	ue (Customs, USD	1)						
	Jan 16	Feb 16	Mar 16	Apr 16	May 16	Jun 16	Jul 16	Aug 16	Sep 16	Oct 16	Nov 16	Dec 16	YTD Sep 16	Ann 2016
Argentina	4,969,269	15,760,436	27,877,992	54,078,930	80,705,234	87,924,733	135,112,512	125,677,331	120,611,044	153,016,798	168,127,114	225,956,431	652,717,481	1,199,817,824
Indonesia	-	-	11,370,073	19,646,876	27,197,661	44,878,737	24,181,791	34,303,009	37,716,469	24,434,839	39,462,720	5,083,676	199,294,616	268,275,851
Canada	17,061,760	8,209,750	21,591,317	27,528,469	29,124,082	39,572,889	26,374,492	33,213,048	35,297,753	20,020,156	22,213,223	50,723,219	237,973,560	330,930,158
Germany	-	5,584	7,294,734	21,123	-	-	-	-	8,557,314	8,776,568	17,387,410	35,136,968	15,878,755	77,179,701
Korea	-	-	-	6,963,314	_	5,994,755	7,405,150	14,242,382	-	7,308,291	8,573,303	12,110,395	34,605,601	62,597,590
All Others	5,909	-	-	3,280,964	-	9,285	811,657	27,446	436,104	280,116	216,782	605,278	4,571,365	5,673,541
Total	22,036,938	23,975,770	68,134,116	111,519,676	137,026,977	178,380,399	193,885,602	207,463,216	202,618,684	213,836,768	255,980,552	329,615,967	1,145,041,378	1,944,474,665
	Jan 17	Feb 17	Mar 17	Apr 17	May 17	Jun 17	Jul 17	Aug 17	Sep 17	Oct 17	Nov 17	Dec 17	YTD Sep 17	% Chg YTD
Argentina		51,751,498	78,758,858	62,944,557	May 17 82,725,097	170,714,229	157,879,787	133,776,609	Sep 17	Oct 17	Nov 17 -	-	738,550,635	13.2%
Indonesia	-	51,751,498 -	78,758,858 -	62,944,557 -	82,725,097 -	170,714,229 -	157,879,787 71,400	133,776,609	-	Oct 17 - -	Nov 17 - -		738,550,635 71,400	13.2% -100.0%
Indonesia Canada		51,751,498	78,758,858	62,944,557		170,714,229	157,879,787	133,776,609	Sep 17 - - - 22,425,105	Oct 17 - - -	Nov 17 - - -	-	738,550,635	13.2% -100.0% -30.1%
Indonesia	-	51,751,498 -	78,758,858 -	62,944,557 -	82,725,097 -	170,714,229 -	157,879,787 71,400	133,776,609	-	Oct 17	Nov 17 - - - -	-	738,550,635 71,400	13.2% -100.0% -30.1% -100.0%
Indonesia Canada	- - 11,986,227	51,751,498 -	78,758,858 -	62,944,557 -	82,725,097 -	170,714,229 -	157,879,787 71,400	133,776,609	-	Oct 17 - - - -	Nov 17 - - - - -	-	738,550,635 71,400	13.2% -100.0% -30.1%
Indonesia Canada Germany	- 11,986,227 - - 574,196	51,751,498 - 15,314,479 -	78,758,858 - 9,093,954 -	62,944,557 - 16,787,475 -	82,725,097 - 20,093,945 - - 40,654	170,714,229 - 15,086,571 - - - 45,426	157,879,787 71,400 20,375,528 - - -	133,776,609	- - 22,425,105 -	Oct 17	Nov 17	-	738,550,635 71,400 166,308,224 - 6,593,606 1,357,599	13.2% -100.0% -30.1% -100.0% -80.9% -70.3%
Indonesia Canada Germany Korea	- - 11,986,227 - -	51,751,498 - 15,314,479 - -	78,758,858 - 9,093,954 - -	62,944,557 - 16,787,475 - -	82,725,097 - 20,093,945 - -	170,714,229 - 15,086,571 - -	157,879,787 71,400	133,776,609	22,425,105 - 6,593,606	Oct 17	Nov 17	- - - -	738,550,635 71,400 166,308,224 - 6,593,606	13.2% -100.0% -30.1% -100.0% -80.9%
Indonesia Canada Germany Korea <i>All Others</i>	- 11,986,227 - - 574,196	51,751,498 - 15,314,479 - - - 592,907	78,758,858 - 9,093,954 - - - 46,205	62,944,557 - 16,787,475 - - - 4,270	82,725,097 - 20,093,945 - - 40,654	170,714,229 - 15,086,571 - - - 45,426	157,879,787 71,400 20,375,528 - - - 178,326,715	133,776,609 - 35,144,940 - - -	22,425,105 - 6,593,606 53,941	Oct 17	Nov 17	- - - -	738,550,635 71,400 166,308,224 - 6,593,606 1,357,599	13.2% -100.0% -30.1% -100.0% -80.9% -70.3%
Indonesia Canada Germany Korea <i>All Others</i>	- 11,986,227 - - 574,196 12,560,423	51,751,498 - 15,314,479 - - 592,907 67,658,884	78,758,858 - 9,093,954 - - 46,205 87,899,017	62,944,557 - 16,787,475 - - 4,270 79,736,302	82,725,097 20,093,945 40,654 102,859,696	170,714,229 - 15,086,571 - - 45,426 185,846,226	157,879,787 71,400 20,375,528 - - - 178,326,715 AUV (\$/kg)	133,776,609 - 35,144,940 - - - 168,921,549	22,425,105 - 6,593,606 53,941 29,072,652	- - - - - - -	- - - - - - -	- 1 - 1 - 1 - 1 - 1	738,550,635 71,400 166,308,224 - 6,593,606 1,357,599 912,881,464	13.2% -100.0% -30.1% -100.0% -80.9% -70.3% -20.3%
Indonesia Canada Germany Korea All Others	- 11,986,227 - - 574,196 12,560,423	51,751,498 - 15,314,479 - - 592,907 67,658,884	78,758,858 - 9,093,954 - - - 46,205 87,899,017	62,944,557 - 16,787,475 - - 4,270 79,736,302 Apr 16	82,725,097 - 20,093,945 - - 40,654 102,859,696	170,714,229 - 15,086,571 - - 45,426 185,846,226	157,879,787 71,400 20,375,528 - - - 178,326,715 AUV (\$/kg) Jul 16	133,776,609 - 35,144,940 - - - 168,921,549 Aug 16	22,425,105 - 6,593,606 53,941 29,072,652 Sep 16	- - - - - - - - Oct 16	- - - - - - - Nov 16	Dec 16	738,550,635 71,400 166,308,224 - 6,593,606 1,357,599 912,881,464 YTD Sep 16	13.2% -100.0% -30.1% -100.0% -80.9% -70.3% -20.3%
Indonesia Canada Germany Korea All Others Total Argentina	- 11,986,227 - 574,196 12,560,423 Jan 16 0.73	51,751,498 - 15,314,479 - 592,907 67,658,884 Feb 16 0.79	78,758,858 - 9,093,954 - 46,205 87,899,017 Mar 16 0.77	62,944,557 - 16,787,475 - 4,270 79,736,302 Apr 16 0.73	82,725,097 - 20,093,945 - 40,654 102,859,696 May 16 0.80	170,714,229 - 15,086,571 - 45,426 185,846,226 Jun 16 0.76	157,879,787 71,400 20,375,528 - - - 178,326,715 AUV (\$/kg) Jul 16 0.81	133,776,609 - 35,144,940 - - - 168,921,549 Aug 16 0.79	22,425,105 6,593,606 53,941 29,072,652 Sep 16 0.80		- - - - - - - - - - - 0. - - - - - - - -	Dec 16 0.87	738,550,635 71,400 166,308,224 - 6,593,606 1,357,599 912,881,464 YTD Sep 16 0.79	13.2% -100.0% -30.1% -100.0% -80.9% -70.3% -20.3% Ann 2016 0.81
Indonesia Canada Germany Korea All Others Total Argentina Indonesia	11,986,227 - - 574,196 12,560,423 Jan 16 0.73	51,751,498 - 15,314,479 - 592,907 67,658,884 Feb 16 0.79	78,758,858 - 9,093,954 46,205 87,899,017 Mar 16 0.77 0.66	62,944,557 - 16,787,475 - - 4,270 79,736,302 Apr 16 0.73 0.66	82,725,097 - 20,093,945 - 40,654 102,859,696 May 16 0.80 0.72	170,714,229 - 15,086,571 - - 45,426 185,846,226 Jun 16 0.76 0.75	157,879,787 71,400 20,375,528 178,326,715 AUV (\$/kg) Jul 16 0.81 0.73	133,776,609 - 35,144,940 168,921,549 Aug 16 0.79 0.76	22,425,105 6,593,606 53,941 29,072,652 Sep 16 0.80 0.74		- - - - - - - - - - - 0.83 0.75	Dec 16 0.87 0.54	738,550,635 71,400 166,308,224 - - 6,593,606 1,357,599 912,881,464 YTD Sep 16 0.79 0.73	13.2% -100.0% -30.1% -100.0% -80.9% -70.3% -20.3% Ann 2016 0.81 0.73
Indonesia Canada Germany Korea All Others Total Argentina Indonesia Canada	11,986,227 - - 574,196 12,560,423 Jan 16 0.73 - 0.75	51,751,498 - 15,314,479 - - 592,907 67,658,884 Feb 16 0.79 - 0.78	78,758,858 - 9,093,954 - - 46,205 87,899,017 Mar 16 0.77 0.66 0.77	62,944,557 - 16,787,475 - - - 4,270 79,736,302 Apr 16 0.73 0.66 0.82	82,725,097 - 20,093,945 - 40,654 102,859,696 May 16 0.80	170,714,229 15,086,571 - 45,426 185,846,226 Jun 16 0.76 0.75 1.19	157,879,787 71,400 20,375,528 - - - 178,326,715 AUV (\$/kg) Jul 16 0.81	133,776,609 - 35,144,940 - - - - 168,921,549 Aug 16 0.79 0.76 0.89	22,425,105 - 6,593,606 53,941 29,072,652 Sep 16 0.80 0.74 0.92			Dec 16 0.87 0.97 0.97	738,550,635 71,400 166,308,224 - 6,593,606 1,357,599 912,881,464 YTD Sep 16 0.79 0.73 0.91	13.2% -100.0% -30.1% -100.09 -80.9% -70.3% -20.3% Ann 2016 0.81 0.73 0.92
Indonesia Canada Germany Korea All Others Total Argentina Indonesia Canada Germany	11,986,227 - - 574,196 12,560,423 Jan 16 0.73	51,751,498 - 15,314,479 - - 592,907 67,658,884 Feb 16 0.79 - 0.78 13.96	78,758,858 - 9,093,954 - 46,205 87,899,017 Mar 16 0.77 0.66 0.77 0.76	62,944,557 - 16,787,475 - 4,270 79,736,302 Apr 16 0.73 0.66 0.82 1.29	82,725,097 - 20,093,945 40,654 102,859,696 May 16 0.80 0.72 1.03	170,714,229 - 15,086,571 - 45,426 185,846,226 Jun 16 0.76 0.75 1.19	157,879,787 71,400 20,375,528 178,326,715 AUV (5/kg) Jul 16 0.81 0.73 0.90 -	133,776,609 - 35,144,940 - - - 168,921,549 Aug 16 0.79 0.76 0.89 -	22,425,105 - 6,593,606 53,941 29,072,652 Sep 16 0.80 0.74 0.92 0.94			Dec 16 1 0.87 1 0.54 1 0.97 1 1.01 1	738,550,635 71,400 166,308,224 - 6,593,606 1,357,599 912,881,464 YTD Sep 16 0.79 0.73 0.91 0.85	13.2% -100.0% -30.1% -100.0% -80.9% -70.3% -20.3% Ann 2016 0.81 0.73 0.92 0.93
Indonesia Canada Germany Korea All Others Total Argentina Indonesia Canada Germany Korea	- 11,986,227 - 574,196 12,560,423 Jan 16 0.73 - 0.75 -	51,751,498 - 15,314,479 - - 592,907 67,658,884 Feb 16 0.79 - 0.78	78,758,858 - 9,093,954 - - 46,205 87,899,017 Mar 16 0.77 0.66 0.77	62,944,557 - 16,787,475 - 4,270 79,736,302 Apr 16 0.73 0.66 0.82 1.29 0.93	82,725,097 - 20,093,945 - 40,654 102,859,696 May 16 0.80 0.72	170,714,229 - 15,086,571 - 45,426 185,846,226 Jun 16 0.76 0.75 1.19 - 0.86	157,879,787 71,400 20,375,528	133,776,609 - 35,144,940 - - - 168,921,549 Aug 16 0.79 0.76 0.89 - 0.89	22,425,105 - 6,593,606 53,941 29,072,652 Sep 16 0.80 0.74 0.92 0.94		Nov 16 0.83 0.75 0.95 0.87 0.90	Dec 16 0.87 0.54 0.97 1.01 0.90	738,550,635 71,400 166,308,224 6,593,606 1,357,599 912,881,464 YTD Sep 16 0.79 0.73 0.91 0.85 0.90	13.2% -100.0% -30.1% -100.0% -80.9% -70.3% -20.3% Ann 2016 0.81 0.73 0.92 0.93 0.90
Indonesia Canada Germany Korea All Others Total Argentina Indonesia Canada Germany Korea All Others	11,986,227 - - 574,196 12,560,423 Jan 16 0.73 - 0.75 - - 295.45	51,751,498 - 15,314,479 - 592,907 67,658,884 Feb 16 0.79 - 0.78 13.96 -	78,758,858 - 9,093,954 46,205 87,899,017 Mar 16 0.77 0.66 0.77 0.76	62,944,557 - 16,787,475 - - 4,270 79,736,302 Apr 16 0.73 0.66 0.82 1.29 0.93 0.39	82,725,097 - 20,093,945 - 40,654 102,859,696 May 16 0.80 0.72 1.03	170,714,229 - 15,086,571 - 45,426 185,846,226 Jun 16 0.76 0.75 1.19 - 0.86 3.00	157,879,787 71,400 20,375,528 178,326,715 AUV (\$/kg) Jul 16 0.81 0.73 0.90 - 0.91 1.16	133,776,609 - 35,144,940 168,921,549 Aug 16 0.79 0.76 0.89 - 0.89 1.08	22,425,105 6,593,606 53,941 29,072,652 Sep 16 0.80 0.74 0.92 0.94	Oct 16 0.84 0.73 0.94 0.95 0.91	Nov 16 0.83 0.75 0.95 0.87 0.90 1.08	Dec 16 0.87 0.54 0.97 1.01 0.90 4.92	738,550,635 71,400 166,308,224 - 6,593,606 1,357,599 912,881,464 YTD Sep 16 0.79 0.73 0.91 0.85 0.90 0.48	13.2% -100.0% -30.1% -100.0% -80.9% -70.3% -20.3% Ann 2016 0.81 0.73 0.92 0.93 0.90 0.56
Indonesia Canada Germany Korea All Others Total Argentina Indonesia Canada Germany Korea	- 11,986,227 - 574,196 12,560,423 Jan 16 0.73 - 0.75 -	51,751,498 - 15,314,479 - - 592,907 67,658,884 Feb 16 0.79 - 0.78 13.96	78,758,858 - 9,093,954 - 46,205 87,899,017 Mar 16 0.77 0.66 0.77 0.76	62,944,557 - 16,787,475 - 4,270 79,736,302 Apr 16 0.73 0.66 0.82 1.29 0.93	82,725,097 - 20,093,945 40,654 102,859,696 May 16 0.80 0.72 1.03	170,714,229 - 15,086,571 - 45,426 185,846,226 Jun 16 0.76 0.75 1.19 - 0.86	157,879,787 71,400 20,375,528	133,776,609 - 35,144,940 - - - 168,921,549 Aug 16 0.79 0.76 0.89 - 0.89	22,425,105 - 6,593,606 53,941 29,072,652 Sep 16 0.80 0.74 0.92 0.94		Nov 16 0.83 0.75 0.95 0.87 0.90	Dec 16 0.87 0.54 0.97 1.01 0.90	738,550,635 71,400 166,308,224 6,593,606 1,357,599 912,881,464 YTD Sep 16 0.79 0.73 0.91 0.85 0.90	13.2% -100.0% -30.1% -100.0% -80.9% -70.3% -20.3% Ann 2016 0.81 0.73 0.92 0.93 0.90
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Indonesia Canada Germany Korea All Others Total Argentina Indonesia Canada Germany Korea All Others Total	Jan 16 0.73 - 0.75 - 0.75 - Jan 17	51,751,498 - 15,314,479 - 592,907 67,658,884 Feb 16 0.79 - 0.78 13.96 - 0.79 Feb 17	78,758,858 - 9,093,954 - 46,205 87,899,017 Mar 16 0.77 0.66 0.77 0.76 0.75 Mar 17	62,944,557 - 16,787,475 - 4,270 79,736,302 Apr 16 0.73 0.66 0.82 1.29 0.93 0.39 0.73 Apr 17	82,725,097 - 20,093,945 - 40,654 102,859,696 May 16 0.80 0.72 1.03 0.82 May 17	170,714,229 - 15,086,571 - 45,426 185,846,226 Jun 16 0.76 0.75 1.19 - 0.86 3.00 0.83	157,879,787 71,400 20,375,528 178,326,715 AUV (\$/kg) Jul 16 0.81 0.73 0.90 - 0.91 1.16 0.82 Jul 17	133,776,609 - 35,144,940 168,921,549 Aug 16 0.79 0.76 0.89 - 0.89 1.08 0.80 Aug 17	22,425,105 - 6,593,606 - 53,941 - 29,072,652 - Sep 16 - 0.80 - 0.74 - 0.92 - 0.94 - 1.24 - 0.81	Oct 16 0.84 0.73 0.94 0.95 0.91	Nov 16 0.83 0.75 0.95 0.87 0.90 1.08	Dec 16 0.87 0.54 0.97 1.01 0.90 4.92 0.89	738,550,635 71,400 166,308,224 - 6,593,606 1,357,599 912,881,464 YTD Sep 16 0.79 0.73 0.91 0.85 0.90 0.48 0.80	13.2% -100.0% -30.1% -100.0% -80.9% -70.3% -20.3% Ann 2016 0.81 0.73 0.92 0.93 0.90 0.56 0.82
Indonesia Canada Germany Korea All Others Total Argentina Indonesia Canada Germany Korea All Others Total Argentina	Jan 16 0.73 - 0.75 - 0.75 - 0.75 - 0.75	51,751,498 - 15,314,479 - - 592,907 67,658,884 Feb 16 0.79 - 0.78 13.96 - 0.79	78,758,858 - 9,093,954 - 46,205 87,899,017 Mar 16 0.77 0.66 0.77 0.76 - 0.75	62,944,557 - 16,787,475 - 4,270 79,736,302 Apr 16 0.73 0.66 0.82 1.29 0.93 0.39 0.73 Apr 17 0.83	82,725,097 - 20,093,945 40,654 102,859,696 May 16 0.80 0.72 1.03 0.82	170,714,229 - 15,086,571 - 45,426 185,846,226 Jun 16 0.76 0.75 1.19 - 0.86 3.00 0.83 Jun 17 0.74	157,879,787 71,400 20,375,528	133,776,609 - 35,144,940 168,921,549 Aug 16 0.79 0.76 0.89 - 0.89 1.08 0.80 Aug 17 0.74	22,425,105 6,593,606 53,941 29,072,652 Sep 16 0.80 0.74 0.92 0.94 - 1.24 0.81 Sep 17	Oct 16 0.84 0.73 0.94 0.95 0.91 1.12 0.84	Nov 16 0.83 0.75 0.95 0.87 0.90 1.08	Dec 16 0.87 0.54 0.97 1.01 0.90 4.92 0.89	738,550,635 71,400 166,308,224 6,593,606 1,357,599 912,881,464 YTD Sep 16 0.79 0.73 0.91 0.85 0.90 0.48 0.80 YTD Sep 17 0.76	13.2% -100.0% -30.1% -100.0% -80.9% -70.3% -20.3% Ann 2016 0.81 0.73 0.92 0.93 0.90 0.56 0.82 % Chg YTD -2.9%
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Indonesia Canada Germany Korea All Others Total Argentina Indonesia Canada Germany Korea All Others Total Argentina Indonesia Canada Canada Canada Canada Canada Canada Canada Canada Canada	Jan 16 0.73 - 0.75 - 295.45 0.75 Jan 17 - 0.89	51,751,498 - 15,314,479 592,907 67,658,884 Feb 16 0.79 - 0.78 13.96 0.79 Feb 17 0.84 - 0.87	78,758,858 - 9,093,954 - 46,205 87,899,017 Mar 16 0.77 0.66 0.77 0.76 0.75 Mar 17	62,944,557 - 16,787,475 - 4,270 79,736,302 Apr 16 0.73 0.66 0.82 1.29 0.93 0.39 0.73 Apr 17 0.83 - 0.79	82,725,097 - 20,093,945 - 40,654 102,859,696 May 16 0.80 0.72 1.03 0.82 May 17	170,714,229 - 15,086,571 - 45,426 185,846,226 Jun 16 0.76 0.75 1.19 - 0.86 3.00 0.83 Jun 17 0.74 - 0.88	157,879,787 71,400 20,375,528	133,776,609 - 35,144,940 168,921,549 Aug 16 0.79 0.76 0.89 - 0.89 1.08 0.80 Aug 17 0.74 - 0.93	22,425,105 6,593,606 53,941 29,072,652 Sep 16 0.80 0.74 0.92 0.94 - 1.24 0.81 Sep 17	Oct 16 0.84 0.73 0.94 0.95 0.91 1.12 0.84	Nov 16 0.83 0.75 0.95 0.87 0.90 1.08	Dec 16 0.87 0.54 0.97 1.01 0.90 4.92 0.89	738,550,635 71,400 166,308,224 6,593,606 1,357,599 912,881,464 YTD Sep 16 0.79 0.73 0.91 0.85 0.90 0.48 0.80 YTD Sep 17 0.76 1.19 0.86	13.2% -100.0% -30.1% -100.0% -80.9% -70.3% -20.3% Ann 2016 0.81 0.73 0.92 0.93 0.90 0.56 0.82 % Chg YTD -2.9% 63.6% -5.9%
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Indonesia Canada Germany Korea All Others Total Argentina Indonesia Canada Germany Korea All Others Total Argentina Indonesia Canada Germany Korea Germany Korea Germany Korea	Jan 16 0.73 - 0.75 - 295.45 0.75 Jan 17 - 0.89	51,751,498 - 15,314,479 592,907 67,658,884 Feb 16 0.79 - 0.78 13.96 0.79 Feb 17 0.84 - 0.87 0.87	78,758,858 - 9,093,954 - 46,205 87,899,017 Mar 16 0.77 0.66 0.77 0.76 0.75 Mar 17 0.83 - 0.64	62,944,557 - 16,787,475 - 4,270 79,736,302 Apr 16 0.73 0.66 0.82 1.29 0.93 0.39 0.73 Apr 17 0.83 - 0.79	82,725,097 - 20,093,945 - 40,654 102,859,696 May 16 0.80 0.72 1.03 0.82 May 17 0.76 - 0.81 0.81	170,714,229 - 15,086,571 - 45,426 185,846,226 Jun 16 0.76 0.75 1.19 - 0.86 3.00 0.83 Jun 17 0.74 - 0.88 - 0.88	157,879,787 71,400 20,375,528 178,326,715 AUV (5/kg) Jul 16 0.81 0.73 0.90 - 0.91 1.16 0.82 Jul 17 0.74 1.19	133,776,609 - 35,144,940 168,921,549 Aug 16 0.79 0.76 0.89 - 0.89 1.08 0.80 Aug 17 0.74 - 0.93	22,425,105 - 6,593,606 53,941 29,072,652 Sep 16 0.80 0.74 0.92 0.94 - 1.24 0.81 Sep 17 - 0.92 - 0.92	Oct 16 0.84 0.73 0.94 0.95 0.91 1.12 0.84	Nov 16 0.83 0.75 0.95 0.87 0.90 1.08	Dec 16 0.87 0.54 0.97 1.01 0.90 4.92 0.89	738,550,635 71,400 166,308,224 6,593,606 1,357,599 912,881,464 YTD Sep 16 0.79 0.73 0.91 0.85 0.90 0.48 0.80 YTD Sep 17 0.76 1.19 0.86 - 0.87	13.2% -100.0% -30.1% -100.0% -80.9% -70.3% -20.3% Ann 2016 0.81 0.73 0.92 0.93 0.90 0.56 0.82 % Chg YTD -2.9% 63.6% -5.9% -100.0% -3.3%
Indonesia Canada Germany Korea All Others Total Argentina Indonesia Canada Germany Korea All Others Total Argentina Indonesia Canada Germany Korea All Others	Jan 16 0.73 - 0.75 - 295.45 0.75 Jan 17 - 0.89	51,751,498 - 15,314,479 592,907 67,658,884 Feb 16 0.79 - 0.78 13.96 0.79 Feb 17 0.84 - 0.87	78,758,858 - 9,093,954 46,205 87,899,017 Mar 16 0.77 0.66 0.77 0.76 0.75 Mar 17 0.83	62,944,557 - 16,787,475 - 4,270 79,736,302 Apr 16 0.73 0.66 0.82 1.29 0.93 0.39 0.73 Apr 17 0.83 - 0.79	82,725,097 - 20,093,945 - 40,654 102,859,696 May 16 0.80 0.72 1.03 0.82 May 17	170,714,229 - 15,086,571 - 45,426 185,846,226 Jun 16 0.76 0.75 1.19 - 0.86 3.00 0.83 Jun 17 0.74 - 0.88	157,879,787 71,400 20,375,528 178,326,715 AUV (5/kg) Jul 16 0.81 0.73 0.90 - 0.91 1.16 0.82 Jul 17 0.74 1.19	133,776,609 - 35,144,940 168,921,549 Aug 16 0.79 0.76 0.89 - 0.89 1.08 0.80 Aug 17 0.74 - 0.93	22,425,105 - 6,593,606 - 53,941 - 29,072,652 - Sep 16 - 0.80 - 0.74 - 0.92 - 0.94 - 1.24 - 0.81 - Sep 17 	Oct 16 0.84 0.73 0.94 0.95 0.91 1.12 0.84	Nov 16 0.83 0.75 0.95 0.87 0.90 1.08	Dec 16 0.87 0.54 0.97 1.01 0.90 4.92 0.89	738,550,635 71,400 166,308,224 6,593,606 1,357,599 912,881,464 YTD Sep 16 0.79 0.73 0.91 0.85 0.90 0.48 0.80 YTD Sep 17 0.76 1.19 0.86	13.2% -100.0% -30.1% -100.0% -80.9% -70.3% -20.3% Ann 2016 0.81 0.73 0.92 0.93 0.90 0.56 0.82 % Chg YTD -2.9% 63.6% -5.9% -100.0%

Source: U.S. Department of Commerce and USITC

^{*}consisting of HTS #s 3826.00.1000 (Biodiesel not containing petroleum oils or oils obtained from bituminous materials (B100)) and 3826.00.3000 (Biodiesel mixtures, not containing or containing less than 70 percent by weight of petroleum oils or oils obtained from bituminous materials).



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November 21, 2017

Mr. William Wehrum Assistant Administrator for Air and Radiation U.S. Environmental Protection Agency 1200 Pennsylvania Ave., N.W. Washington, D.C. 20004

RE: Biodiesel Supply - Docket EPA-HQ-OAR-2017-0091

Dear Mr. Wehrum:

On September 15, 2017, the American Fuel & Petrochemical Manufacturers ("AFPM")¹ wrote to alert EPA to a potential shortfall of biodiesel needed to comply with the Renewable Fuel Standard (RFS) mandates.² This shortfall stems in part from the effects of recent determinations by the U.S. Department of Commerce in antidumping and countervailing duty (anti-subsidy) investigations the agency is conducting with respect to imports of biodiesel from Argentina and Indonesia. We now write to inform you of the latest developments in these matters and the impact they are having on the quantities of biodiesel imported and available for compliance with the RFS mandates. This information was not available during the 2018 RFS comment period, and in light of EPA's historical reliance on imported biodiesel to satisfy the RFS mandates, the information is of central relevance to the RFS implementation rule.

On November 9, 2017, the Department of Commerce announced its affirmative final determinations that countervailable subsidies are being provided to producers and exporters of biodiesel from the Republic of Argentina and Republic of Indonesia.³ Commerce determined that the Government of Argentina has been providing unfair subsidies to Argentinian biodiesel producers at rates from 71.45 to 72.28 percent, and that the Government of Indonesia has been providing similar subsidies to Indonesian producers at rates between 34.45 to 64.73 percent.⁴ As a result of these determinations, Commerce has instructed the U.S. Customs and Border

¹ AFPM is a trade association representing high-tech American manufacturers of virtually the entire U.S. supply of gasoline, diesel, jet fuel, other fuels and home heating oil, as well as the petrochemicals used as building blocks for thousands of vital products in daily life.

² See AFPM Letter to Sarah Dunham re: Biodiesel Supply in 2017, EPA-HQ-OAR-2017-0091-4116 (Sept. 15, 2017); see also AFPM Comments in response to EPA Notice of Data Availability, EPA-HQ-OAR-2017-0091-4703 (Oct. 19, 2017).

³ Department of Commerce, Biodiesel From the Republic of Indonesia: Final Affirmative Countervailing Duty Determination, 82 *Federal Register* 53471 (Nov. 16, 2017); Biodiesel From the Republic of Argentina: Final Affirmative Countervailing Duty Determination, 82 *Federal Register* 53477 (Nov. 16, 2017).

⁴ *Id.*, *see also* U.S. Department of Commerce, Press Release, (Nov. 9, 2017), https://www.commerce.gov/news/press-releases/2017/11/us-department-commerce-issues-affirmative-final-countervailing-duty.



AFPM Letter on BBD Supply November 21, 2017 Page 2 of 3

Protection (CBP) to collect cash deposits from the U.S. importers of biodiesel from Argentina and Indonesia based on these final rates. Further, in addition to being required to post cash deposits at these final subsidy margins, U.S. importers are also required to post estimated antidumping duties (ranging from 54.36 to 69.91 percent for Argentina and at 50.71 percent for Indonesia) as a result of Commerce's preliminary antidumping duty determinations, which were announced in late October.⁵

Commerce's trade determinations are having a significant impact on shipments of imported biodiesel from these countries. Specifically, biodiesel imports from Argentina and Indonesia have all but dried up following Commerce's preliminary determinations of countervailing duties that were announced in August 2017. In September 2017, the most recent month for which data is available, no biodiesel was imported from either of these countries. Moreover, as a result of the significant cash deposits of estimated countervailing and antidumping duties that U.S. importers must now post with CBP when entering biodiesel from Argentina and Indonesia into the United States, there is virtually no prospect of significant volumes of biodiesel imports from those countries for the foreseeable future. Given the historical significance of biodiesel imports from these countries and their role in helping to achieve RFS compliance, EPA must factor these duties into the final RFS mandates for the biomass-based diesel (BBD), advance biofuel, and total renewable fuel standards. Failing to do so would be arbitrary and capricious.

AFPM requests that EPA consider this material information as it moves to finalize the 2018 RFS implementation rule. In addition, the Agency should continue to monitor EMTS entries, shipping data reflecting scheduled imports, and other information relevant to the supply of BBD available for compliance, and be prepared to address any renewable fuel supply shortfalls.

* * * *

__ 5

⁵ See Department of Commerce, Biodiesel From Argentina: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, 82 Federal Register 50,391 (Oct. 31, 2017); and Department of Commerce, Biodiesel from Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, 82 Federal Register 50,379 (Oct. 31, 2017).

⁶ See Department of Commerce, Biodiesel From the Republic of Indonesia: Preliminary Affirmative Countervailing Duty Determination, 82 Federal Register 40,746 (Aug. 28, 2017); Department of Commerce, Biodiesel From Argentina: Preliminary Affirmative Countervailing Duty Determination and Preliminary Affirmative Critical Circumstances Determination, in Part, 82 Federal Register 40,748 (Aug. 28, 2017).

⁷ See Appendix (summary table reporting official monthly U.S. import statistics published by the U.S. Census Bureau and U.S. International Trade Commission).



AFPM Letter on BBD Supply November 21, 2017 Page 3 of 3

Thank you in advance for your attention to this matter. If you have any questions, please do not hesitate to contact the undersigned at (202) 552-8474.

Respectfully submitted,

Richard Moskowitz

cc: Chris Grundler William Charmley Paul Machiele

Chad Whiteman

Message

Chet Thompson [Cthompson@afpm.org] From:

7/5/2017 8:23:37 PM Sent:

To: Grundler, Christopher [grundler.christopher@epa.gov]

RE: NPRM is live Subject:

Thanks

Chet Thompson President and CEO

American Fuel & Petrochemical Manufacturers 1667 K Street NW Suite 700 Washington, DC 20006 202.457.0480 office 202.602.6505 direct

cthompson@afpm.org

Learn more about AFPM at afpm.org

----Original Message---From: Grundler, Christopher [mailto:grundler.christopher@epa.gov]

Sent: Wednesday, July 5, 2017 3:56 PM To: Chet Thompson <Cthompson@afpm.org> Subject: NPRM is live

Sent from my iPhone

Message

From: Grundler, Christopher [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D3BE58C2CC8545D88CF74F3896D4460F-GRUNDLER, CHRISTOPHER]

Sent: 2/21/2017 3:02:24 PM
To: Cthompson@afpm.org
Subject: Time for coffee?

Chet-

It's been some time since we last chatted. I am in DC the next few days. Let me know when would be a good time to get together for a coffee

Chris

Appointment

From: Dominguez, Alexander [dominguez.alexander@epa.gov]

Sent: 7/17/2017 7:40:36 PM

To: Dominguez, Alexander [dominguez.alexander@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Birsic,

Michael J. (MPC) [mjbirsic@marathonpetroleum.com]; tjpeterkoski@marathonpetroleum.com

CC: Walas, Fred (MPC) [fawalas@marathonpetroleum.com]

Subject: Call - Marathon / EPA (re: Ozone)

Location: Conference Line: Ex. 6 Personal Privacy (PP)

Start: 8/1/2017 2:00:00 PM **End**: 8/1/2017 2:30:00 PM

Show Time As: Busy

Appointment

From: Dominguez, Alexander [dominguez.alexander@epa.gov]

Sent: 7/17/2017 7:40:36 PM

To: Dominguez, Alexander [dominguez.alexander@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Birsic,

Michael J. (MPC) [mjbirsic@marathonpetroleum.com]; tjpeterkoski@marathonpetroleum.com

CC: Walas, Fred (MPC) [fawalas@marathonpetroleum.com]

Subject: Call - Marathon / EPA (re: Ozone)

Location: Conference Line Ex. 6 Personal Privacy (PP)

Start: 8/1/2017 2:00:00 PM **End**: 8/1/2017 2:30:00 PM

Show Time As: Busy

Message

From: Birsic, Michael J. [mjbirsic@marathonpetroleum.com]

Sent: 1/7/2019 1:48:10 PM

To: Dominguez, Alexander [dominguez.alexander@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: RE: January 7 Meeting Request

Alex and Mandy,

Are we still on for your meeting this afternoon, or do we need to reschedule due to the shutdown?

Mike

From: Birsic, Michael J.

Sent: Thursday, December 20, 2018 11:29 AM

To: Dominguez, Alexander <dominguez.alexander@epa.gov>

Subject: RE: January 7 Meeting Request

Lets do 4pm. Thanks for getting us on the calendar.

I hope you are getting some time off for the holidays. I know how hard you all are working.

Mike

From: Dominguez, Alexander < dominguez.alexander@epa.gov>

Sent: Thursday, December 20, 2018 11:03 AM

To: Birsic, Michael J. mjbirsic@marathonpetroleum.com **Subject:** [EXTERNAL] RE: January 7 Meeting Request

Hey Mike – Apologies for the delay. Are you able to meet Monday, January 7th at either 3:30 or 4:00?

Best, Alex

Alex Dominguez

Policy Advisor to the Assistant Administrator Office of Air and Radiation U.S. Environmental Protection Agency D: 202-564-3164

M: 202-578-5985

From: Birsic, Michael J. <mjbirsic@marathonpetroleum.com>

Sent: Thursday, December 20, 2018 10:21 AM

To: Dominguez, Alexander < dominguez.alexander@epa.gov>

Subject: Re: January 7 Meeting Request

Hey Alex,

Hope all is well. I just wanted to circle back on our request below. Thanks!

Mike

On Dec 14, 2018, at 11:04 AM, Birsic, Michael J. mjbirsic@marathonpetroleum.com wrote:

Hi Mandy,

I hope you are doing well. Fred Walas, our Fuels manager, will be in town on January 7 and we wanted to see if you had a moment to meet with us to discuss the RFS. Thank you in advanced for your consideration and I hope to speak with you soon.

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004 Direct: 202-442-2459

Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com

From: American Legislative Exchange Council [tmclaughlin@alec.org]

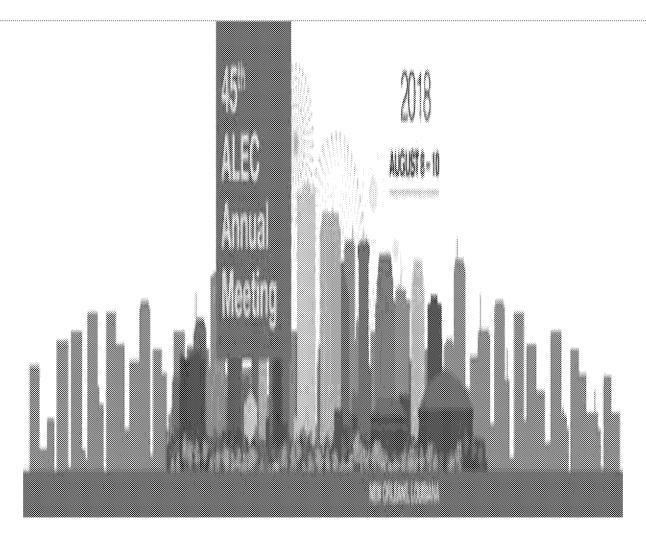
Sent: 8/16/2018 4:01:07 PM

To: Gunasekara, Mandy [Gunasekara, Mandy@epa.gov]

Subject: 45th ALEC Annual Meeting Week in Review

To view this email as a web page, go here.





Annual Meeting Week in Review - August 16, 2018





Whether you could join ALEC in New Orleans, or missed out on the action, there's plenty of interesting and educational programming coming from this landmark conference. Here's a selection of some of the highlights of the 45th ALEC Annual Meeting.

For a quick look at some of the more interesting moments of the week, check out these slideshows



View Slideshow



View Slideshow

Cabinet Speakers





Elaine L. Chao U.S. Secretary of Transportation

Alex Azar U.S. Secretary of Health and Human Services

View Speech

View Speech (7.48)

Featured Interviews

Featured Interview



Mark Janus and Vinnie Vernuccio on Worker Freedom

Vinnie Vernuccio of the Mackinac Center talks to Worker Freedom standard-bearer Mark Janus to talk about his experiences and the road ahead.

View Video

Featured Interview



Louisiana Treasurer John Schroder on State Budgets

Louisiana State Treasurer John Schroder stopped by to speak with ALEC Chief Economist Jonathan Williams about Tax Policy and State Budgets.

View Video

Featured Interview

Featured Interview



Local Right to Work in New Mexico

Sandoval County Commissioner Jay Block discusses the effectiveness of local right to work policies in New Mexico, and how his constituents benefit from being open for business.

View Video

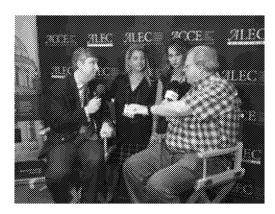


Brooke Rollins of the White House talks Re-Entry Reform

Criminal Justice Director Ronnie Lampard had the opportunity to catch up with Brooke Rollins of the White House Office of American Innovation to discuss how the administration is handling criminal justice issues.

View Video

Featured Interview



Medical Freedom in Texas

Texas Lawmakers Tan Parker and Paul Bettencourt join Tracy Thompson and Jennifer Ziegler to talk about their adult stem cell research model, medical freedom, and their success in Texas.

View Video

Featured Interview



Criminal Justice with MD Sen. Michael Hough

Maryland Senator Michael Hough joins ALEC Criminal Justice Director Ronnie Lampard to cover some of the issues facing the country in the criminal justice field.

View Video

Want to see more?



All speeches and additional content from the 45th ALEC Annual Meeting are available at the ALEC Facebook page.

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This email was sent to: gunasekara.mandy@epa.gov

This email was sent by: American Legislative Exchange Council 2900 Crystal Drive, Suite 600 Arlington, VA 22202 United States

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Manage Subscriptions | Update Profile | Unsubscribe

Message

From: Dominguez, Alexander [dominguez.alexander@epa.gov]

Sent: 8/24/2018 7:13:39 PM

To: Richard Moskowitz [rmoskowitz@afpm.org]

CC: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: RE: RMP

Richard,

Per our conversation you are confirmed for a 45 minute meeting on Monday, August 27th at 1:00PM with Mandy Gunasekara.

Directions and procedures to 1200 Pennsylvania Avenue NW:

Metro: If you come by Metro get off at the Federal Triangle metro stop. Exit the metro station and go up two sets of escalators to the surface level and turn right. You will see a short staircase and wheelchair ramp leading to a set of glass doors with the EPA logo - that is the William Jefferson Clinton Federal Building, North Entrance.

Taxi: Direct the taxi to drop you off on 12th Street NW, between Constitution and Pennsylvania Avenues, at the elevator for the Federal Triangle metro stop - this is almost exactly half way between the two avenues on 12th Street NW. Facing the building with the EPA logo and American flags, walk toward the building and take the glass door on your right hand side with the escalators going down to the metro on your left – that is the North Lobby of the William Jefferson Clinton building.

Security Procedures: A government issued photo id is required to enter the building and it is suggested you arrive 15 minutes early in order to be cleared and arrive at the meeting room on time. Upon entering the lobby, the meeting attendees will be asked to pass through security and provide a photo ID for entrance. If you are a foreign national entering on a non-US passport, please let us know in advance, as there is a separate clearance process.

Upon arrival, let the guards know that you were instructed to call 202-564-3164 for a security escort.

<u>Please send me a list of participants and any handouts in advance of the meeting.</u> Feel free to contact me should you need any additional information.

Alex Dominguez

Policy Analyst to the Principal Deputy Office of Air and Radiation U.S. Environmental Protection Agency D: 202-564-3164

M: 202-564-5164 M: 202-578-5985

From: Dominguez, Alexander

Sent: Friday, August 24, 2018 10:48 AM

To: 'Richard Moskowitz'
Subject: FW: RMP

Richard – Would you be able to do Monday, August 27th at 1:00PM at EPA HQ?

Alex Dominguez

Policy Analyst to the Principal Deputy Office of Air and Radiation U.S. Environmental Protection Agency D: 202-564-3164

M: 202-578-5985

Begin forwarded message:

From: Richard Moskowitz < RMoskowitz@afpm.org>

Date: August 22, 2018 at 3:57:06 PM EDT

To: "gunasekara.mandy@epa.gov" <gunasekara.mandy@epa.gov>

Subject: RMP

Good afternoon Mandy,

I'd like to get on your calendar to discuss the implications of the DC Circuit's ruling in the RMP delay litigation. I'm hoping Monday would work for you and your team, as we are up against a tight deadline. If you need to reach me, my cell is Ex. 6 Personal Privacy (PP)

Thanks,

Richard Moskowitz General Counsel

American
Fuel & Petrochemical
Manufacturers
1800 M Street, NW
Suite 900 North
Washington, DC 20036

202.844.5474 direct 202.457.0480 office

rmoskowitz@afpm.org

Learn more about AFPM, at afpm.org

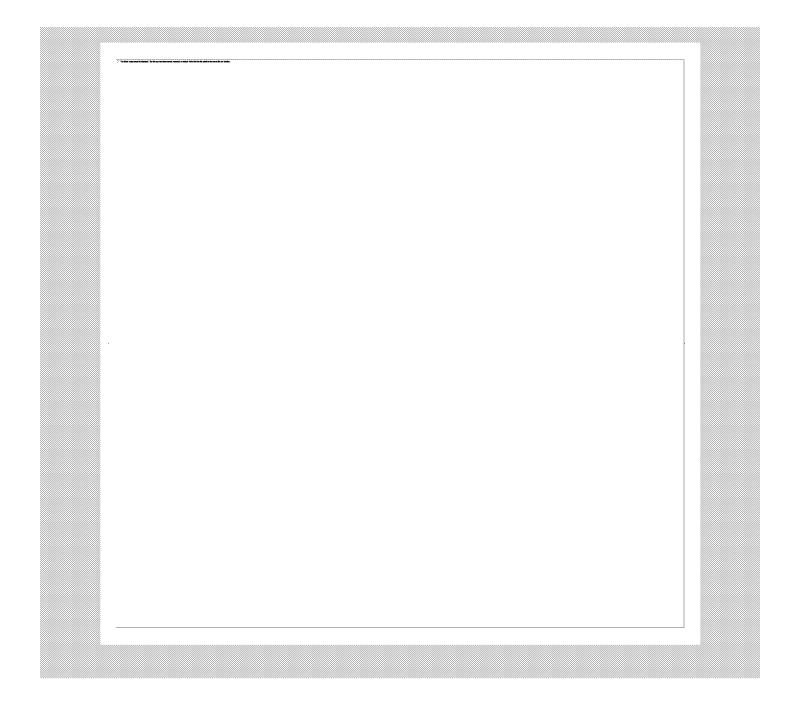
CONFIDENTIALITY NOTICE: This electronic message contains information from the American Fuel & Petrochemical Manufacturers that may be confidential or privileged. The information is intended solely for the use of the individual(s) or entity(ies) named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please notify us immediately by telephone at (202) 457-0480 or by reply e-mail and permanently delete this e-mail, any attachments, and all copies thereof.

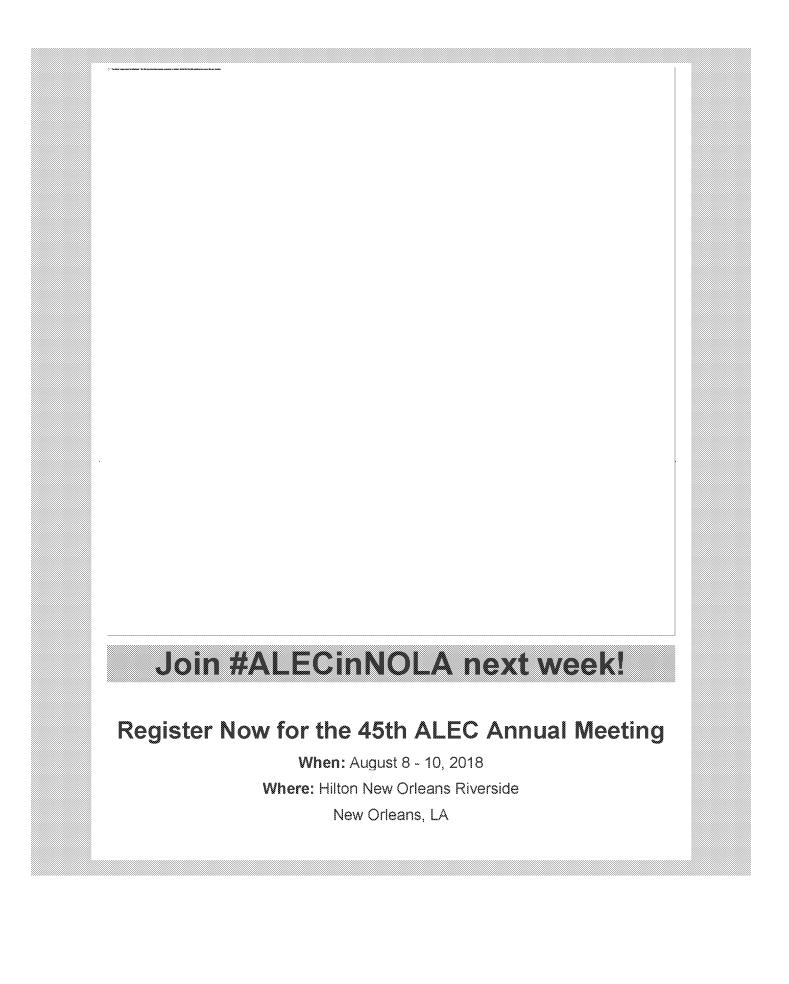
From: Courtney Cook [CCook@alec.org]

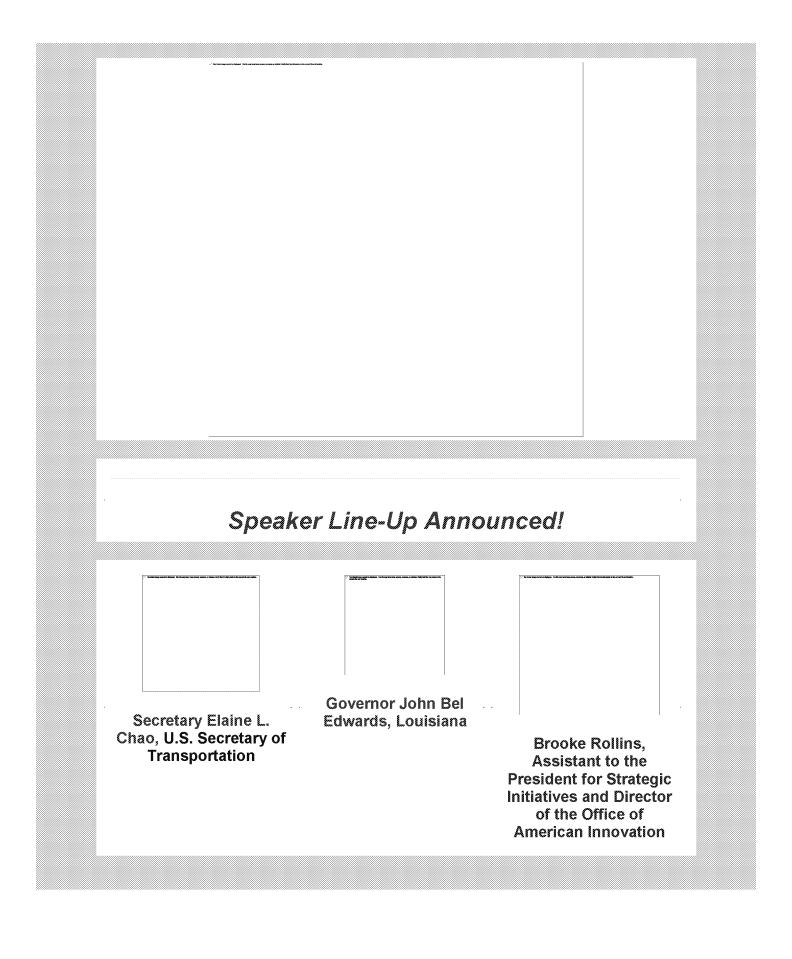
Sent: 8/1/2018 7:41:31 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: ALEC - Big Ideas in the Big Easy!







David Horowitz, David Horowitz Freedom Center	Brian Markwalter, Consumer Technology Association	Stephen Moore, Distinguished Visiting Fellow for Project for Economic Growth, The Heritage Foundation
Director Scott Angelle, Bureau of Safety and Environmental Enforcement, Department of the Interior	Lisa B. Nelson, American Legislative Exchange Council	Travis Brown, First Rule
Treasurer John M. Schroder, Sr., State of Louisiana	Senator Robert Onder (MO)	Susan Combs, Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior

Tell your story on Media Row

Have a great story about what's happening in your state or how a policy has affected your community? Stop by the media row in the ALEC exhibit hall to share your limited government, free market and federalism stories on camera with multiple sources.

- ALEC Media Team
- Daily Signal
- Freedom Works
- Job Creators Network

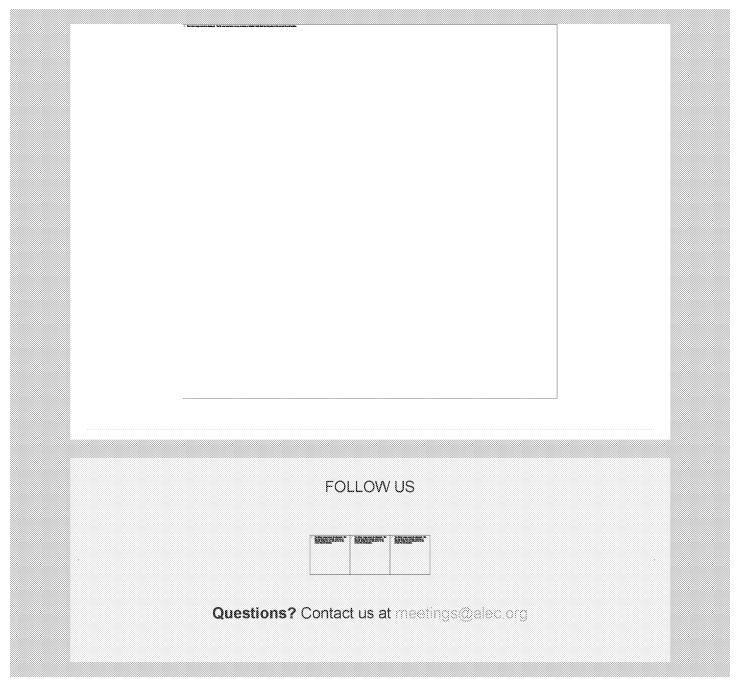
Workshops Just Announced!

- Coming Together on School Safety: The Need to Set Standards for Securing our Schools
- Reviving Energy Infrastructure
- Freedom of Association in the Age of Intimidation
- Flexibility, Fuels and the Future
- EdChoice in a Challenging Environment

- Energy Dominance: Exploring the Trump Energy Agenda
- Regulation through Local Government Litigation: How Plaintiffs' Lawyers Are Sidestepping Legislative Authority on Opioids, Climate Change, Data Privacy and More
- Start-Up CEO: Making the Choices to Develop a Novel Medicine
- Straight Talk About an Article V
 Convention of States: Who Supports,
 Who Opposes and Why?
- Electronics Recycling Policy What is Working and What is Not

Stay Tuned for more #ALECIdeas happening at the 45th ALEC Annual Meeting!

Full Conference Agenda



Unsubscribe

This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202



Message

From: Birsic, Michael J. [mjbirsic@marathonpetroleum.com]

Sent: 6/21/2018 4:38:32 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: SRE Analysis

Attachments: 20180621 Small Refinery Analysis.pdf

Mandy,

We already shared this with you a couple weeks ago, but wanted to send along again. This shows the impact SREs have when reallocated on the non-exempted obligated party. Please let us know if you have any questions with the analysis.

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004 Direct: 202-442-2459

Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com

RFS Percentage Standard Formula

Exemption and re-distribution of the RVO on 20 billion gallons of Small Refinery
Obligated Gasoline and Distillate results in a 12.5% increase in the obligation to Large Refineries

Basis: 2018 RVO

2018 Renewable Volume Obligation Calculation

Step 1

DOE Determines
Industry Obligated
Volume

Industry Obligated Volume	Billion Gallons	Billion Gallons
All Gasoline Blends	143.22	
All Diesel Blends	54.76	
Total Transport Fuels (A)		197.98
Biofuels		
Ethanol	14.71	
Biodiesel	2.53	
Total Biofuels (B)		17.24
Small Refinery Exemption (C)		0.00
Gasoline Hydrocarbon	128.51	
Diesel Hydrocarbon	52.23	
Industry Obligated Volume (A-B-C)		180.74

DOE estimates the total gasoline, distillate, ethanol, and biodiesel based on their Annual Energy Outlook report

Step 2
EPA Determines
Industry Biofuel
Mandate Volume as
a Percent of the

Obligated Volume

RIN Type	Mandated RIN Volume	Industry Obligation	
	Billions	Percent	
D6 Renewable Fuel	15.00	15.00/180.74 x 100% = 8.30%	
D4 Biomass Based Diesel	3.15	3.15/180.74 x 100% = 1.74%	
D5 Advanced	0.852	0.852/180.74 x 100% = 0.47%	
D3 Cellulosic	0.288	0.288/180.74 x 100% = 0.159%	
Total RINs	19.29	19.281/180.74 x 100% = 10.67%	

EPA applies the mandated volumes of biofuels by category to the Industry Obligated Volume to determine the biofuel blending ratios

Step 3
OP Applies the EPA
Obligation
Percentages to OP
Production to
Determine OP RIN
Obligation

	Millions of Gallons/RINs
OP Annual Production	20,000 million gallons
OP D6 Ethanol RIN Obligation	8.30% x 20,000 = 1,660 million D6 RINs
OP D4 Biodiesel RIN Obligation	1.74% x 20,000 = 349 million D4 RINs
OP D5 Advanced RIN Obligation	0.47% x 20,000 = 94 million D5 RINS
OP D3 Cellulosic RIN Obligation	0.159% x 20,000 = 32 million D3 RINs
OP Total 2018 Obligation	10.67% x 20,000 = 2,135 million RINs

Each Obligated Party determines their specific obligation based their actual production

2018 Renewable Volume Obligation Calculation

Step 1

DOE Determines
Industry Obligated
Volume

Industry Obligated Volume	Billion Gallons	Billion Gallons
All Gasoline Blends	143.22	
All Diesel Blends	54.76	
Total Transport Fuels (A)		197.98
Biofuels		
Ethanol	14.71	
Biodiesel	2.53	
Total Biofuels (B)		17.24
Small Refinery Exemption (C)		20.00
Gasoline Hydrocarbon	128.51	
Diesel Hydrocarbon	52.23	
Industry Obligated Volume (A-B-C)		160.74

DOE estimates the total gasoline, distillate, ethanol, and biodiesel based on their Annual Energy Outlook report

Step 2
EPA Determines
Industry Biofuel
Mandate Volume as
a Percent of the
Obligated Volume

RIN Type	Mandated RIN Volume	Industry Obligation	
	Billions	Percent	
D6 Renewable Fuel	15.00	15.00/160.74 x 100% = 9.33%	
D4 Biomass Based Diesel	3.15	3.15/160.74 x 100% = 1.96%	
D5 Advanced	0.852	0.852/160.74 x 100% = 0.53%	
D3 Cellulosic	0.288	0.288/160.74 x 100% = 0.179%	
Total RINs	19.29	19.281/160.74 x 100% = 12.00%	

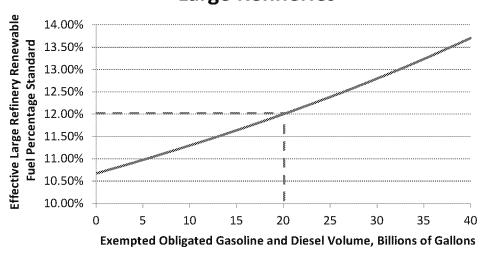
EPA applies the mandated volumes of biofuels by category to the Industry Obligated Volume to determine the biofuel blending ratios

Step 3
OP Applies the EPA
Obligation
Percentages to OP
Production to
Determine OP RIN
Obligation

	Millions of Gallons/RINs
OP Annual Production	20,000 million gallons
OP D6 Ethanol RIN Obligation	9.33% x 20,000 = 1,866 million D6 RINs
OP D4 Biodiesel RIN Obligation	1.96% x 20,000 = 392 million D4 RINs
OP D5 Advanced RIN Obligation	0.53% x 20,000 = 106 million D5 RINS
OP D3 Cellulosic RIN Obligation	0.179% x 20,000 = 36 million D3 RINs
OP Total 2018 Obligation	12.00% x 20,000 = 2,400 million RINs

Each Obligated Party determines their specific obligation based their actual production

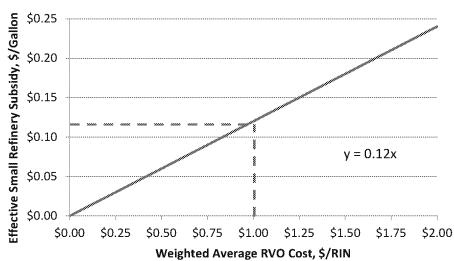
Impact of Small Refinery Exemption on Large Refineries



- Given RIN full cost pass through to the consumer, all refineries have the same economic impact resulting in a level playing field in the 2018 RVO
- The small refinery exemption actually would act as a subsidy to benefit the qualifying plants, paid for by the large refineries due to the redistribution of the volume obligation
- A \$1.00/RIN RVO cost would result in a 12 cent per gallon cross subsidy from large refineries to small refineries

- The 2018 Renewable Fuel percentage standard is set at 10.67% with no small refinery exemptions
- For this hypothetical analysis, exempted gasoline and diesel volumes are assumed to be redistributed to large refineries
- A 20 billion obligated gallon exemption would result in an effective Renewable Fuel percentage standard of 12.0% on the large refiners

Subsidy Effect of Small Refinery Exemption on Small Refinery Margins



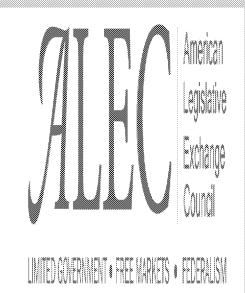
Basis: 2018 RVO

From: Courtney Cook [CCook@alec.org]

Sent: 6/27/2018 3:42:29 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: ALEC - Only HOURS Left to Save!





Only HOURS Left for Early Bird Pricing!

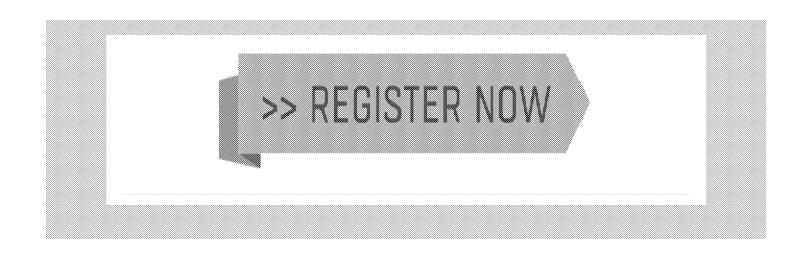
Registration Prices will Increase Tomorrow!

Register Now for the 45th ALEC Annual Meeting

When: August 8 - 10, 2018

Where: Hilton New Orleans Riverside

New Orleans, LA





Meeting Highlights

- Secretary Elaine L. Chao to Speak at Opening Session
- School Security Workshop
- Rural Caucus Meeting
- Innovation Round-table

Additional highlights coming soon!

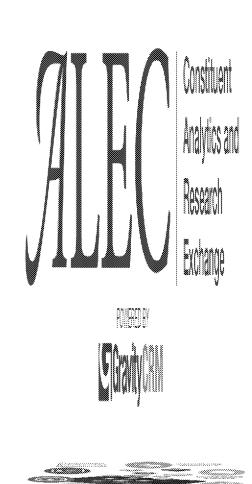
U.S. Secretary of Transportation, Secretary Elaine L. Chao

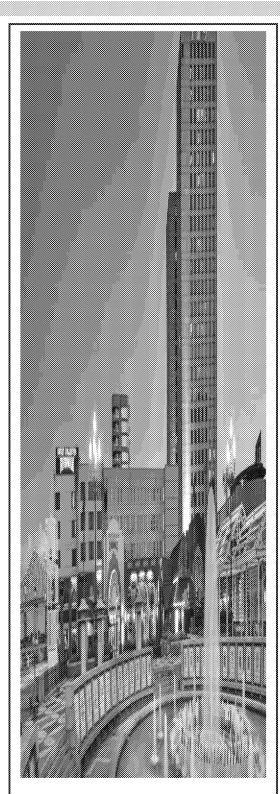
Full Conference Agenda

Join an ALEC CARE session in New Orleans

The Annual Meeting in New Orleans will include presentations on the Constituent Analytics and Research Exchange (CARE) constituent management member benefit. If you haven't started using the program, or would like a refresher on the system, we invite you to join our CARE Associate for one of the rolling, 30-minute sessions throughout the week of the conference. For those who attend these demonstrations, we will activate a personal account, specific to your legislative jurisdiction, which you can start using right away.

If you would like more information, please contact **Aaron Gillham**.





Make your reservation TODAY at the Hilton New Orleans Riverside

Book now through **July 11, 2018*** at the ALEC rate of **\$159 per night.**

Important Meeting Information

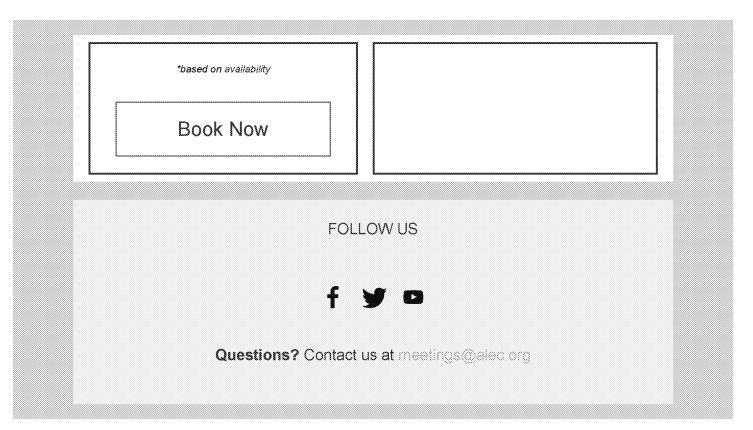
June 27: Last day for Early Bird registration rates

July 10: 30-day policy and agenda notification goes out to ALEC members

July 11:

- Last day for the ALEC hotel rate
 *based on availability
- Last day for Standard registration rates
- Exhibitor application deadline

August 8 - 10: 45th ALEC Annual Meeting



Unsubscribe

This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202



Message

From: Geoffrey Moody [GMoody@afpm.org]

Sent: 1/2/2018 6:46:36 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

CC: Atkinson, Emily [Atkinson.Emily@epa.gov]; Lewis, Josh [Lewis.Josh@epa.gov]

Subject: AFPM meeting request

Mandy, per our conversation, I was wondering if we could find an hour on Friday to meet with you and other appropriate EPA staff on a couple of fuel and vehicle issues. From AFPM it will likely be me, Derrick Morgan (SVP, Federal), and Rich Moskowitz (General Counsel). Chet Thompson may also attend if his schedule allows. At this point we're all flexible on time, so whatever works best for you and the team.

Thanks,

Geoff Moody

Vice President Government Relations

American

Fuel & Petrochemical

Manufacturers

1667 K Street NW

Suite 700

Washington, DC 20006

202.457.0480 office

202.552.8489 direct

202.457.0486 fax

gmoody@afpm.org

Learn more about AFPM at afpm.org

From: Dominguez, Alexander [dominguez.alexander@epa.gov]

Sent: 4/17/2018 12:09:02 PM

To: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

CC: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Menefee, Jake E. (MPC)

[jakeemenefee@marathonpetroleum.com]

Subject: RE: [EXTERNAL] RE: Meeting Request

Not a problem – Wednesday 2:30 – 4:00 is open if you can make any of those times work.

From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]

Sent: Monday, April 16, 2018 8:21 PM

To: Dominguez, Alexander <dominguez.alexander@epa.gov>

Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Menefee, Jake E. (MPC)

<jakeemenefee@marathonpetroleum.com>
Subject: Re: [EXTERNAL] RE: Meeting Request

Alex and Mandy,

Unfortunately Dave got caught up in the snow storms in the Midwest and his flight was canceled and he is not able to get into DC in time for our meeting. Any chance you are available sometime Wednesday to meet with us for 30 mins?

Mike

On Apr 13, 2018, at 8:53 AM, Dominguez, Alexander < dominguez.alexander@epa.gov > wrote:

Great. You are confirmed for Tuesday, April 17th at 8:30am.

Conference Line: 202-991-0477

ID: 418-9418

Directions and procedures to 1200 Pennsylvania Avenue NW:

Metro: If you come by Metro get off at the Federal Triangle metro stop. Exit the metro station and go up two sets of escalators to the surface level and turn right. You will see a short staircase and wheelchair ramp leading to a set of glass doors with the EPA logo - that is the William Jefferson Clinton Federal Building, North Entrance.

Taxi: Direct the taxi to drop you off on 12th Street NW, between Constitution and Pennsylvania Avenues, at the elevator for the Federal Triangle metro stop - this is almost exactly half way between the two avenues on 12th Street NW. Facing the building with the EPA logo and American flags, walk toward the building and take the glass door on your right hand side with the escalators going down to the metro on your left – that is the North Lobby of the William Jefferson Clinton building.

Security Procedures: A government issued photo id is required to enter the building and it is suggested you arrive 15 minutes early in order to be cleared and arrive at the meeting room on time. Upon entering the lobby, the meeting attendees will be asked to pass through security and provide a photo ID for entrance. If you are a foreign national entering on a non-US passport, please let us know in advance, as there is a separate clearance process.

Just give me a call when you are at security and I will come down. 202-578-5985. Anything else just let me know.

From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]

Sent: Thursday, April 12, 2018 8:24 PM

To: Dominguez, Alexander < dominguez.alexander@epa.gov>

Cc: Gunasekara, Mandy < <u>Gunasekara.Mandy@epa.gov</u>>; Menefee, Jake E. (MPC)

<jakeemenefee@marathonpetroleum.com>
Subject: Re: [EXTERNAL] RE: Meeting Request

Alex,

We can do Tuesday morning at 8:30am. Can we get a call-in line because we will have our chief counsel calling in to the meeting as well if we can get a line. In attendance in-person will be me, Jake, David Whikehart and Guy Beeman.

Please let us know if you need anymore information on our end.

Mike

On Apr 12, 2018, at 6:03 PM, Dominguez, Alexander < dominguez.alexander@epa.gov> wrote:

Hey Mike,

Happy to set something up.

Per our discussion, if you only need a thirty minute meeting Mandy is available: Monday, April $16^{\rm th}$ – 2:30; 5:00

Tuesday, April 17th – 8:30

For an hour:

Wednesday, April $18^{th} - 12:00 - 3:00$ Thursday, April $19^{th} - 10:00 - 1:00$ Friday, April $20^{th} - 1:00 - 2:00$

If you think you could let me know by tomorrow morning at least a few openings you would like me to hold it would be much appreciated. I have a few more meetings to set up tomorrow and I just want to make sure not to double book. Feel free to give me a call if easier to discuss by phone.

Appreciate it, Alex

Alex Dominguez

Policy Analyst to the Principal Deputy Office of Air and Radiation U.S. Environmental Protection Agency D: 202-564-3164

C: 202-578-5985

From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]

Sent: Thursday, April 12, 2018 4:20 PM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Cc: Dominguez, Alexander <<u>dominguez.alexander@epa.gov</u>>; Menefee, Jake E. (MPC)

<jakeemenefee@marathonpetroleum.com>

Subject: Meeting Request

Mandy,

I hope you are doing well. We wanted to see if you had some time next week for us to come in and discuss some technical aspects of the small refiner exemptions for the RFS. If you are free, please let us know at your earliest convenience some times that may work for your schedule.

Thank you in advanced for your consideration and we hope to speak with you soon.

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004 Direct: 202-442-2459

Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com

From: Kenneth Stein [kstein@alec.org]

Sent: 7/7/2017 4:56:38 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Speaking at ALEC Annual Meeting

Hello Ms. Gunasekara,

Thank you for agreeing to join us at our Annual Meeting in Denver! We have you scheduled for 8:30 AM on Wednesday July 19th. Our conference is being held at the Hyatt Regency in downtown Denver, 650 15th Street Denver, CO 80202. If you could please register as a speaker at this link so that you have credentials to move around the event.

Steve Higley briefly relayed an overview of your discussion. Do you have a suggested title that I can include on the agenda? Additionally, if you would like to include a bio in our speaker bio printout, please send along what you would like to include.

Please let me know if you have any questions on timing or logistics.

Thank you, Kenny Stein

Kenny Stein
Director, Energy, Environment and Agriculture Task Force

Office: 571-482-5008 Cell: 202-997-4858 kstein@alec.org

2900 Crystal Drive, Suite 600 Arlington, VA 22202



Upcoming Meetings:

2017 Annual Meeting – July 19-21, 2017 – Denver, Colorado 2017 States and Nation Policy Summit – December 6-8, 2017 – Nashville, Tennessee 2018 Spring Task Force Summit – April 27, 2018 – Grand Rapids, Michigan

The American Legislative Exchange Council is a 501(c)3 nonprofit organization and is the largest nonpartisan, voluntary membership organization of state legislators in the United States dedicated to the principles of limited government, free markets and federalism. The Council is governed by state legislators who comprise the National Board of Legislators and is advised by the Private Enterprise Advisory Council, a group of private, foundation and think tank members.

Website | Facebook | Twitter | Blog

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 7/3/2017 2:17:56 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]

Subject: RE: [EXTERNAL] RE: Tier 3 Meeting

Great! Thank you Mandy and Alex

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, July 03, 2017 10:14 AM

To: Birsic, Michael J. (MPC); Dominguez, Alexander

Subject: [EXTERNAL] RE: Tier 3 Meeting

Mike,

Thank you for the outreach. Would be happy to set something up. Alex, please include Brittany and Sam on the invite.

I look forward to seeing you soon.

Mandy

From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]

Sent: Monday, July 3, 2017 10:11 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov >; Dominguez, Alexander < dominguez.alexander@epa.gov >

Subject: Tier 3 Meeting

Mandy and Alex,

I hope you both are doing well. On Thursday, July 13, our Fuels Manager, Fred Walas, will be in Washington D.C. I wanted to see if you would be available to meet with us on Thursday morning to discuss Tier 3 gasoline and do a 101.

Thank you in advanced for your consideration and we hope to speak to you soon.

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004 Direct: 202-442-2459

Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com

From: Courtney Cook [CCook@alec.org]

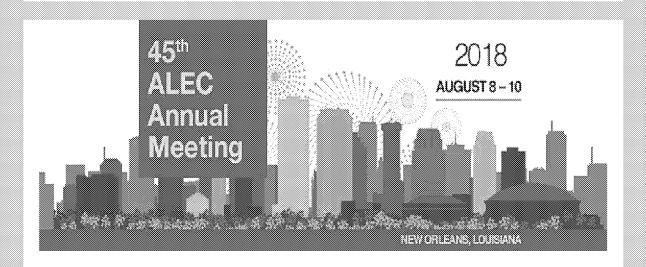
Sent: 6/6/2018 6:15:06 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: ALEC - Expect Big Things in the Big Easy!



UNITED GÜREN VENT • FREE NARVETS • FEDERALSVI



Register Now for the ALEC 2018 Annual Meeting!

When: August 8 - 10, 2018

Where: Hilton New Orleans Riverside

New Orleans, LA

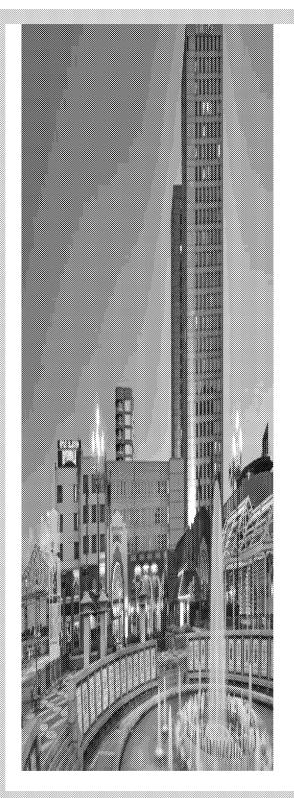


Policy Spotlight: Homeland & School Security

While others retread old debates, ALEC members are forging ahead with solutions that make our schools, students and educators safer. The safety of America's public schools is at the forefront of the minds of policymakers. Many states have recently approved spending bills to combat school violence, yet fewer than one-third of states have established policies or standards, based on best practices, regarding the use of those new funds. This amounts to government throwing money at a problem that may not be fully understood.

Come hear from experts from the **Secure Schools Alliance**, the **Police Foundation**, the **National Fire Prevention Association** and the **Partner Alliance for Safer Schools** as they share new research on which states have set standards for school security; what states require or recommend schools do and don't do to improve their safety and security; what no cost protocols like safety code officials, first responders, and security experts recommend schools follow in the event of school shootings, and what low cost ways that schools can go about assessing their facilities and planning tools for making improvements.

Q and A to follow in Homeland Security Task Force meeting.



Make your reservation TODAY at the Hilton New Orleans Riverside

Book now through **July 11, 2018*** at the ALEC rate of **\$159 per night.**

*based on availability

Book Now

Important Meeting Information

June 27: Last day for Early Bird registration rates

July 10: 30 policy and agenda notification goes out to ALEC members

July 11:

- Last day for the ALEC hotel rate *based on availability
- Last day for Standard registration rates
- Exhibitor application deadline

Full Conference Agenda

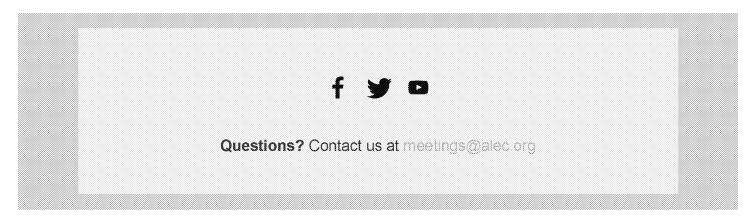
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This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook
ALEC
2900 Crystal Drive, 6th Floor
Arlington, VA 22202



From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 5/8/2017 2:57:24 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: RE: [EXTERNAL] Connection

You are the best! Thanks

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, May 08, 2017 10:55 AM

To: Greenwalt, Sarah
Cc: Birsic, Michael J. (MPC)
Subject: [EXTERNAL] Connection

Hi Sarah,

I'm cc'ing Mike Birsic is a good friend who represents Marathon Petroleum Co. He'd like to see about coordinating a meeting with you and Tim Peterkoski, MPC's lead on environmental issues who will be in town on Thursday. Tim would like to touch base on ELGs.

I hope you two can find a time to connect.

Best, Mandy

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 5/8/2017 2:48:22 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Connection help

Hey Mandy,

Looking forward to seeing you and Samantha tomorrow. I had two items I wanted to see if you could help me with today. The first one is our chairman of the board, president and chief executive officer, Gary Heminger will be in DC on June 20-21 and we wanted to inquire about scheduling a meeting with the Administrator and Mr. Heminger. We wanted to use this opportunity for the Administrator and Mr. Heminger to get to know each other and obviously talk about some key issues, such as the RFS (our favorite subject!) and air regulations.

The second items I have is to see if you could connect me with Sarah Greenwalt. Tim Peterkoski, our lead on environmental issues for the company is in town on Thursday and wanted to see if she was available for a quick meeting on ELGs. I believe you met Tim at the IECA meeting and he said you mentioned Sarah was the best person to speak to on water issues. Anything you can do to connect us would be much appreciated.

Thank you in advanced for any help you can provide. Sorry we weren't able to connect last week. If you need any more information or have any questions, please let me know.

See you tomorrow,

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004 Direct: 202-442-2459

Cell: 202-213-2548 Fax: 202-442-2492

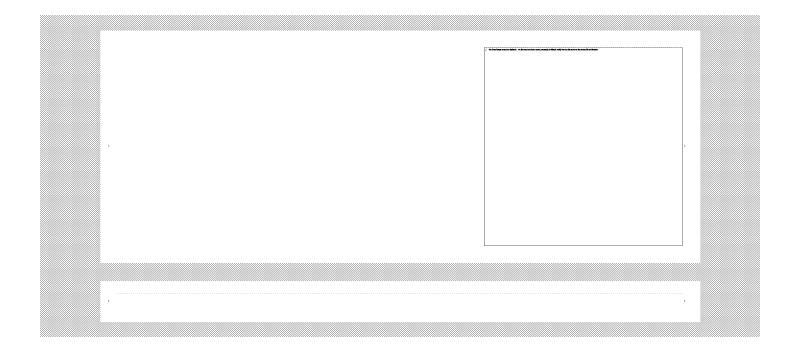
mjbirsic@marathonpetroleum.com

From: Courtney Cook [CCook@alec.org]

Sent: 2/23/2018 3:29:50 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: ALEC - Policy Spotlight for Spring Meeting



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Policy Spotl	ight: Civil Justice Task Fo	orce
Economic Development Ta Administrative Procedures	ustice is teaming up with the Commerce, Insura ask Force to host a subcommittee to create a s Act that would discourage over-regulation and in the executive rule-making process.	tate model
lunch followed by a Task F advocates, from liability co innovators when courts pla	ee meeting, we are arranging for an engaging vectories of interest to civil insiderations for autonomous vehicles to liability ace responsibility on them for generic drugs the us on Friday morning, April 27th!	justice y for drug

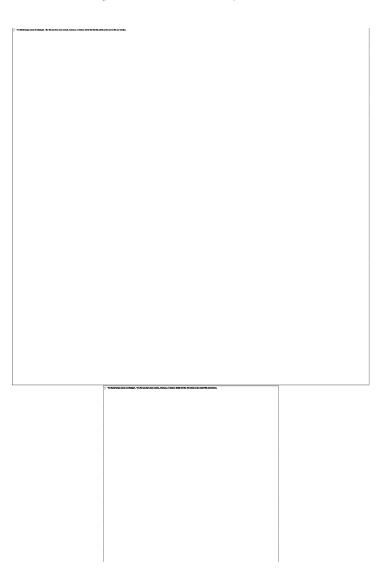
Have you registered for the ALEC 2018 Spring Task Force Summit?

When: April 27, 2018

Where: The Amway Grand Plaza

Grand Rapids, MI

Early Bird Deadline: April 6, 2018



Make your reservation today at the Amway Grand Plaza

While in Grand Rapids, discover the historic charm of the Amway Grand Plaza.

Book now through April 6, 2018* at the ALEC rate of \$179 per night.

*based on availability

Book Now

Members - Dates to Remember:

- March 13, 2018 45-Day Policy Submission Deadline to introduce new model policy
- March 28, 2018 30-Day Notice
 Published- A draft of the Task
 Force Meeting Agendas and
 model policies scheduled for
 consideration and review at the
 Task Force Meeting
- April 6, 2018 Early Bird Registration and Housing Deadline
- April 27, 2018

 Spring Task

 Force Summit in Grand Rapids,

 MI

Agenda at a Glance

Thursday, April 26

9:00 PM - 11:00 PM: Late Night Reception

Friday, April 27

8:00 AM - 11:00 AM: Task Force Subcommittees

11:00 AM - 11:50 AM: Workshop

12:00 PM - 1:30 PM: Luncheons

2:00 PM - 5:00 PM: Task Force Meetings

5:00 PM - 6:00 PM: Michigan Welcome Reception

*Agenda is subject to change

Agenda

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Questions? Contact us at meetings@alectorg

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This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202



From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 4/11/2017 7:48:53 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Ozone

Hey Mandy,

Along with talking about the RFS in 2 weeks, I wanted to reach out to you in regards to ozone too. Are you available the first week of May to meet with me and Tim Peterkoski, MPC's Environmental Auditing and Processes Manager, to talk about ozone NAAQS? We would specifically like to discuss the exceptional events rule under the NAAQS.

Thanks in advanced for your consideration.

Mike

Michael Birsic

Marathon Petroleum Corporation Manager, Federal Government Affairs 1201 F Street, NW, Suite 625 Washington, DC 20004

Direct: 202-442-2459 Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 4/11/2017 12:49:23 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Meeting Request

Attachments: 20160909 MPC Letter to EPA on Point of Obligation.pdf; 20170411 EPA RIN Flow-Through Slides and RVO Data.pptx

Mandy,

I hope you are doing well. I would like to request a meeting with you the week of April 24. Dave Whikehart, our Vice President of Environment, Safety and Corporate Affairs will be in town for meetings and we would like to specifically discuss with you the point of obligation with the RFS. As you are aware, we are one of the refiners who opposes such a move and I think we have a lot of good data and the right person in town to make a compelling case for leaving the point of obligation in place with the refiners and importers.

Additionally, I wanted to share some data with you that will help supplement our future conversations. Attached you will find a presentation with a variety of different data points. The first part of this presentation goes into who exactly the RVOs were broken down for 2017 and even gets into specific details on actual demand for products like E0, E15, and E85. Along with the RVOs, there are some slides that show how RINs work and how they flow through the system. We originally pulled these earlier in the month, but if it helpful, I can have Dave pull any day of the year and he can show you the math always works out the same. And finally, we just have some high level points on the point of obligation, as well as our letter to the EPA.

I hope this information is helpful and that we are able to find a time that last week of April to get together. In the meantime, please let me know if you have any questions or would like any more information prior to our meeting.

Mike

Michael Birsic

Marathon Petroleum Corporation Manager, Federal Government Affairs 1201 F Street, NW, Suite 625 Washington, DC 20004

Direct: 202-442-2459 Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com



Marathon Petroleum Corporation

539 South Main Street Findley, OH 45840-3229 Tel: 419.421.3315 Fax: 419.421.3837

September 9, 2016

BY OVERNIGHT DELIVERY

Gina McCarthy Administrator U.S. Environmental Protection Agency William Jefferson Clinton Building 1200 Pennsylvania Ave., NW Washington, D.C. 20460

Janet McCabe
Acting Assistant Administrator for the Office of Air and Radiation
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.

Mail Code: 6101A
Washington, DC 20460

Re: Opposition to Petitions for Reconsideration and for Rulemaking: Renewable Fuel Standard Definition of Obligated Party – 40 C.F.R. § 80.1406

Dear Administrator McCarthy and Assistant Administrator McCabe:

Marathon Petroleum Corporation (MPC) respectfully submits these comments on the petitions from the Small Refinery Owners Ad Hoc Coalition, Monroe Energy LLC, Valero Energy Corporation, and the American Fuel & Petrochemical Manufacturers (AFPM) (collectively, the "Petitioners") concerning the definition of "Obligated Party" under the Renewable Fuel Standards (hereinafter, "the Petitions"). The Petitioners ask EPA to revise the definition of Obligated Party from the current entities, refiners and importers, to new entities identified as Rack Sellers¹. As explained in this letter, moving the point of obligation to the terminal rack will not solve the ethanol blending limitations in the retail infrastructure, will not increase the amount of advanced biofuels in the marketplace, and ultimately may compromise the integrity of the RIN program.

As defined by Valero and AFPM in their Petitions.

Marathon Petroleum Corporation Profile

As an obligated party and renewable fuel producer, MPC is qualified to provide its views to the Petitioners' request to move the point of obligation. MPC is the third-largest U.S. refiner with seven refineries that have the capacity to process approximately 1.8 million barrels of crude oil per day. MPC markets products through two retail brand names: Marathon and Speedway. Marathon brand fuel is available at approximately 5,400 locations, which are owned by independent entrepreneurs in 19 states in the Midwest and Southeast regions of the U.S. Our Speedway LLC subsidiary owns and operates approximately 2,770 retail gasoline convenience stores in 22 states. MPC owns and operates 61 light product terminals. In addition, MPC owns a biodiesel facility in Ohio and has an ownership position in three ethanol plants in the Midwest.

The Renewable Fuel Standards

Congress enacted the renewable fuel standards (RFS) program to ensure that the transportation fuel sold or introduced into commerce in the United States contains an applicable volume of renewable fuel, increasing annually through calendar year 2022. The statute established separate annual volume requirements for four nested categories of renewable fuel—cellulosic biofuel, biomass-based diesel⁵, advanced biofuel, and total renewable fuel.

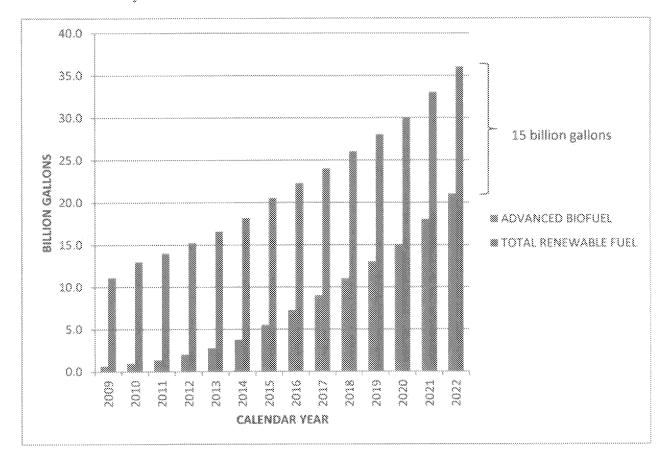
The goal of the statute is to increase the use of advanced biofuel in transportation fuel. The annual volumes were established such that growth of the advanced biofuel volumes would outpace the growth of the total renewable fuel volumes until 2015, at which time the difference between the two requirements would remain constant at 15.0 billion gallons.

² 42 U.S.C. §7545(o)(2)(A)(i)

³ The statute established volume requirements for biomass-based diesel through only 2012.

⁴ "Advanced biofuel" is defined as "renewable fuel, other than ethanol derived from cornstarch, that has lifecycle greenhouse gas emissions that are at least 50 percent less than baseline lifecycle greenhouse gas emissions." 40 C.F.R. §80.1401.

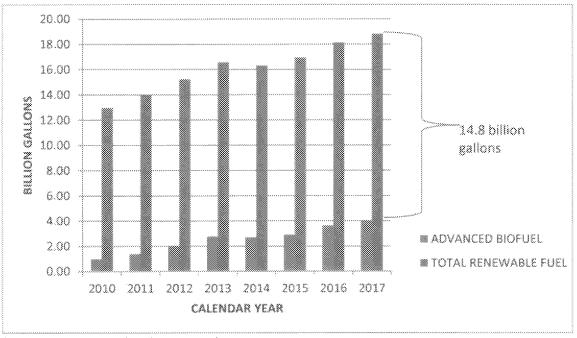
Chart 1: Statutory RFS Volumes



When promulgating the RFS standards for 2014-2016, and proposing the RFS standards for 2017, EPA utilized its general waiver authority to reduce the statutory volumes. EPA noted, "Substantial growth in the renewable fuel volumes beyond current levels in 2016 and beyond will require action by many different parts of the fuel market, and a constraint in any one part of the market can limit the growth in renewable fuel supply." These supply constraints, such as constraints on technology and commercialization, have impacted the growth of advanced biofuel the most. Conventional biofuels, on the other hand, have nearly reached the statutory difference of 15.0 billion gallons, with volumes of 14.5 billion gallons for 2016 and 14.8 billion gallons for 2017.

⁵ Renewable Fuel Standard Program: Standards for 2014, 2015, and 2016 and Biomass-Based Diesel Volume for 2017; Final Rule, 80 Fed. Reg. 77450 (Dec. 14, 2015)

Chart 2: RFS Promulgated Volumes through 2017*



*2017 are proposed volume requirements

To demonstrate compliance with its annual RFS requirements, obligated parties obtain and retire Renewable Identification Numbers ("RINs"). RINs are categorized based on the type of renewable fuel they represent. D3 RINs represent cellulosic biofuel; D4 RINs represent biomass-based diesel; D5 RINs represent advanced biofuel; and D6 RINs represent conventional biofuels. The nesting of the biofuel requirements means, for example, that D4 RINs can be used to comply with the biomass-based diesel and the advanced biofuel volume requirements. D6 RINs, however, can be used only to meet the total renewable fuel requirement. MPC sells and buys RINs, as needed, to comply with each of the categories. "[MPC's] expenses associated with purchased RINs were \$212 million in 2015, \$141 million in 2014 and \$264 million in 2013."

The four renewable fuel categories apply to all obligated parties regardless of whether the obligated party produces or imports gasoline and diesel. In other words, an obligated party that produces only gasoline would be required to demonstrate compliance with all the renewable fuel categories, including the biomass-based diesel volume requirement, despite not having produced a product capable of being blended with biomass-based diesel. This obligated party would need to either purchase D4 RINs or purchase biomass-based diesel and separate the RIN before selling the biomass-based diesel to a blender.

⁶ Marathon Petroleum Corporation Form 10k filed Feb. 26, 2016, p. 63.

Moving the Point of Obligation to the Terminal Rack Will Not Increase Ethanol Blending

As noted, conventional ethanol can be used to fulfill the total renewable fuel obligation. The ethanol blendwall is an acknowledged constraint on the amount of ethanol that can be consumed in transportation fuel. Despite Petitioner's contentions, moving the point of obligation to the terminal rack will not increase ethanol blending nor relieve the significant supply constraints on the use of ethanol in transportation fuel. Petitioners argue that because blenders are not obligated parties, they have no incentive to blend greater volumes of ethanol in gasoline and may even be limiting their ethanol blending so as to increase the value of the D6 RIN. This statement is merely speculation about the intent of the blender. Petitioners ignore the factual supply constraints to increased ethanol blending – the lack of retail infrastructure to store and dispense higher ethanol blends and the lack of the consumer's ability to use gasoline-ethanol blends above E10.

1. Retail station upgrades are necessary to store and dispense gasoline-ethanol blends greater than E10.

One constraint on the ability to introduce higher ethanol blends to the market is the limitations with the existing retail station infrastructure. Older underground storage tanks and dispensing equipment are not certified to store and dispense the higher ethanol blends. The equipment upgrades necessary to sell E15 and E85 can cost upwards of \$200,000 per station. Retail station owners will not incur such significant costs without a favorable rate of return on the investment. The cost of the RIN does not impact this rate of return, even if the point of obligation were moved to the terminal because the majority of the identified Rack Sellers are not retail station owners. In fact, many of the identified Rack Sellers are existing obligated parties (i.e., refiners)¹⁰, who own and operate only 4% of the retail stations. These refiner obligated parties will have no greater influence or control over independent retail station owners by moving the point of obligation than they currently do.

Furthermore, approximately 60% of all retail stores are owned by single store owners.¹² These single store owners are not Rack Sellers and will not be obligated parties. Retail station owners that are non-obligated parties will not encourage increased ethanol blending as they will continue to sell the products that the consumers demand.

http://www.csnews.com/single-store-owner/single-store-perspectives/us-c-store-count-rises-increase-single-stores

⁷ Renewable Fuel Standard Program: Standards for 2017 and Biomass-Based Diesel Volume for 2018; Proposed Rule, 81 Fed. Reg. 34778, 34790 (May 31, 2016)

⁸ Valero Petition at p.23 ("[Rack Sellers] are ... increasing the shortage of RIN supply to increase the value of their surplus RINs.")

⁹ May 1, 2015 Letter from Dan Gilligan, PMAA, to The Honorable Fred Upton, Committee on Energy and Commerce, House of Representatives ("PMAA Letter")

¹⁰ AFPM Petition at p.17 fn, 58 (stating that 60 percent of refiners will likely remain obligated parties under the Rack Seller definition)

¹¹ PMAA Letter at p.1

¹² U.S. C-store Count Rises on Increase in Single Stores, Convenience Store News at

Consumer demand and the vehicle fleet constrain the ability to increase ethanol blending.

Moving the point of obligation to the terminal will not generate more ethanol blending because today's vehicle fleet cannot support a growth in the higher gasoline-ethanol blends. Approximately 7.5% of the vehicle fleet are flex fuel vehicles capable of using E15 or ethanol flex fuel (E85). Those with flex fuel vehicles are more frequently purchasing E10 instead of E85. Based on our sales data, E85 still has not been accepted by the consumers. MPC, through our Speedway subsidiary, has invested in E85 refueling infrastructure with close to 10% of Speedway stations offering E85. This makes Speedway one of the largest suppliers of E85 in the country. Our experience is that there is limited demand for the product. In addition, demand is highly dependent upon geography with the Midwest showing higher demand than other parts of the country. Yet, even in the Midwest, demand for E10 fuels is far greater than E85. Valero's petition echoes this finding. "Valero found that there was little difference in sales of E-85 no matter how Valero priced E-85 compared to E-10...." If pricing has little influence on E85 demand, then the cost of the RIN will not influence E85 consumption.

With respect to E15 use, most cars on the road today are not designed to use E15, regardless of EPA's E15 waiver. EPA's waiver declared that E15 was substantially similar to gasoline allowing use of E15 in model year 2001 and newer vehicles. The automobile manufacturers, however, have identified only a limited number of vehicles suitable for using E15 as a gasoline. Use of E15 in a vehicle not identified by the automobile manufacturer may void the owner's warranty.

Nearly all gasoline is blended with 10% ethanol, but demand for gasoline that does not contain ethanol (E0) has remained consistent and steady. Consumers demand E0 for various purposes including marine, antique cars, snowmobiles, and small engine equipment such as lawnmowers and snow throwers. Consumer demand for E0 has remained relatively stable over the last four years, consisting of 3-5% of the gasoline market. In 2015, E0 sales were 5.3 billion gallons. This demand has been steady despite pricing of E0 that is consistently higher than E10, and was in fact more than 30 cents per gallon higher in early September.

Moving the Point of Obligation to the Terminal Rack Does Not Incentivize Growth in Advanced Biofuels

The volume of conventional biofuels has nearly reached the statutory target of 15 billion gallons. The goal, therefore, should be on relieving supply constraints to advanced biofuel growth. Moving the point of obligation to the terminal rack will not achieve this goal.

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¹³ Percentage based on 2015 EJA Data for ethanol flex fuel cars and trucks: http://www.eia.gov/forecasts/aeo/data/browser/#/?id=49-AEO2016&cases=ref2016~ref_no_cpp&sourcekey=0

¹⁴ Valero Petition at p. 19

¹⁵ Energy Tomorrow Blog, New Study, Continuing Problems with E15 at http://breakingenergy.com/2015/06/04/new-study-continuing-problems-with-e15/

is EIA Data: http://www.eia.gov/todayinenergy/detail.cfm?id=26092&src=email#

The website e85prices.com reported the nationwide average E10 price at \$2.20/gal. E0 fuel was reported at an average nationwide price of \$2.51/gal. https://e85prices.com/, accessed September 6, 2016

To facilitate advanced biofuel growth in the short-term, additional advanced biofuels, such as ethanol from Brazilian sugarcane, will need to be imported. Importing advanced biofuels requires significant financial resources and importing expertise. For example, to import product economically, the importer must transport large volumes of renewable fuel by vessel into accommodating ports. Smaller Rack Sellers may not need such large volumes for blending and may not be logistically situated to transport the imported renewable fuel from the port to the blending facilities. These Rack Sellers will not help increase renewable fuel imports.

Importing of renewable fuel also requires additional review to ensure that the product and associated RINs meet the renewable fuel standards. "To generate RINs for imported renewable fuel ... importers must obtain information from a foreign producer that is registered pursuant to § 80.1450 sufficient to make the appropriate determination regarding the applicable D code and compliance with the renewable biomass definition for each imported batch for which RINs are generated." Even if not directly importing the renewable fuel, there is additional risk in accepting imported renewable fuel and associated RINs that a Rack Seller may not be willing to undertake due to a lack of resources to review documentation.

Moving the Point of Obligation to the Terminal Rack May Compromise the Integrity of the RIN Program

Instead of increasing renewable fuel use in transportation fuel, moving the point of obligation may actually have the adverse result of compromising the integrity of the RIN program. Obligated parties have spent the last ten years developing and implementing compliance strategies consisting of the construction of blending infrastructure, investments in renewable fuel production facilities, development of RIN vetting programs, and auditing procedures for renewable volume obligation reports. As new obligated parties try to catch up and develop these programs, opportunity will exist for increased errors and the generation of invalid RINs.

1. Moving the Point of Obligation to the Terminal Rack Will Significantly Increase the Number of Facilities and Transactions Subject to Regulation.

Petitioners and others have commented on the potential number of companies that would be obligated parties under the proposed Rack Seller definition.²⁰ Even if the number of obligated parties remains relatively the same, the number of points of obligation will significantly increase. In fact, moving the point of obligation to the terminal rack would create over 1,000 locations where gasoline and diesel transactions would need to be measured and recorded to calculate a party's renewable volume obligations.²¹ For example, MPC currently has seven points of obligations — its seven refineries. If the point of obligation were moved to the terminal rack, MPC would have 181 points of obligation — its 61 light product terminals plus approximately

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^{19 40} C.F.R. §80.1426(a)(2)

²⁰ Valero's master list of Rack Sellers identifies 202 entities. Valero Petition at Att. D. AFPM's petition supposed less than 200 entities would be Rack Sellers, compared to approximately 220 Obligated Parties today. AFPM Petition at p. 17.

²¹ Active Fuel Terminals as of August 31, 2016, at https://www.irs.gov/pub/irs-utl/tcn_db.pdf

120 third-party owned terminals in which MPC is a Rack Seller. These third-party terminals may have multiple Rack Sellers, who are all independent of the terminal owner. Each Rack Seller would have to register as a blender for each terminal location in which it holds product.

In addition, the number of transactions in which the hydrocarbon volume is measured significantly increases. Instead of calculating volumes using refinery production data, which consists of large volume batches, renewable volume obligations would be calculated from terminal sales data, which are much smaller volume transactions. As the number of transactions increases so does the risk of error. Valero suggests using federal excise tax documents to verify RVOs. IRS Form 720, however, does not segregate the hydrocarbon portion and renewable fuels portion of the gasoline reported on the form and, thus, would not provide an accurate measure of the portion of the fuel subject to RVO counting.

2. Current Obligated Parties Have Developed the Expertise and Experience to Protect the Integrity of the RIN

Since inception of the renewable fuel standards and use of the RIN to demonstrate compliance, obligated parties have invested significant time and resources in developing a compliance program that ensures the validity of RINs. Obligated parties conduct audits of renewable fuel producers before purchasing RINs to protect from potential RIN fraud.²³ Obligated parties also review renewable fuel purchases and the assigned RIN amounts to verify accuracy. For example, MPC recently discovered a transaction in which the ethanol amount metered by the renewable fuel producer did not match the amount of ethanol delivered to MPC as measured in MPC's tank. After investigation, the parties discovered that the producer's measurement was higher than the actual amount transferred, resulting in the generation of too many RINs. The parties then had to work through EMTS to ensure that the RINs that had been generated as a result of the incorrect measurement were properly retired and not transferred mistakenly to MPC.

Managing the complexities of the RIN program to ensure RIN integrity takes a level of resources, staff, knowledge and expertise that smaller Rack Sellers do not have. MPC has employees dedicated to oversight of its RFS compliance, as well as attorneys, accountants, product quality experts, and operations personnel, who provide assistance to the oversight program. This developed experience and expertise has led to greater confidence in the validity of RINs generated and sold. Moving the point of obligation to the terminal rack and establishing new, inexperienced obligated parties would create uncertainty in RIN transactions and open the door to entities looking to manipulate the system.

²⁰ Valero Petition at p. 6.

²³ MPC has adopted a RIN Integrity Program standard practice. Phillips 66 has published its approved RIN generator list at http://www.phillips66.com/EN/products/Documents/Approved-RIN-Generators.pdf.

Summary

As shown, moving the point of obligation to the terminal rack will not solve the ethanol blendwall, does not encourage advanced biofuel growth and may, in fact, compromise the integrity of the RIN market. Moving the point of obligation may appease Petitioners' financial concerns, but at the expense of new obligated parties that are not positioned to meet all four renewable fuel categories and, therefore, would be similarly required to comply by purchasing RINs on the market. There is no perfect point of obligation in the RFS program because of the way in which the four renewable fuel categories are nested and the way in which renewable volume obligations are calculated. Because moving the point of obligation does not solve the RFS program supply constraints but instead could create new compliance concerns, EPA should deny the Petitions.

Sincerely,

/ab

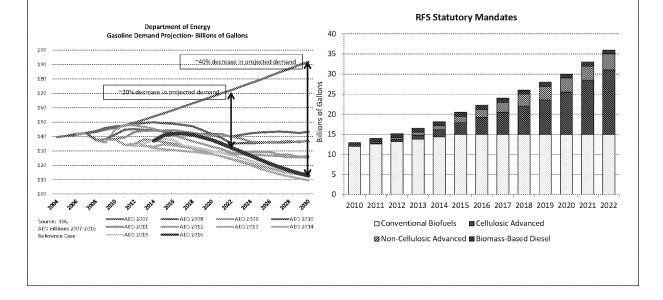
cc: Brian Deese, Assistant to the President and Senior Advisor

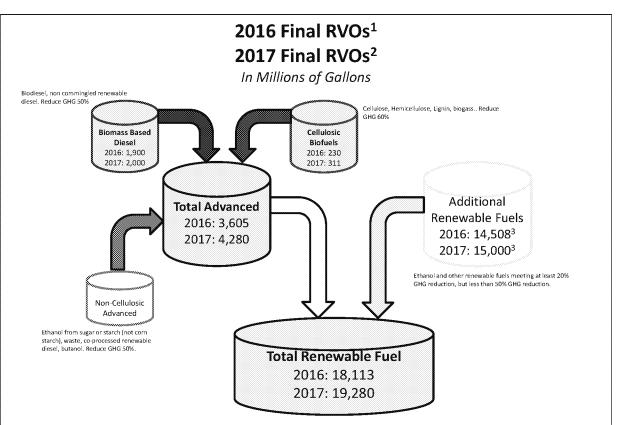
Dan Utech, Deputy Assistant to the President for Energy and Climate Change



Renewable Fuel Standard (RFS)

- Energy and Independence & Security Act of 2007
 - Designed to increase energy security and reduce carbon emissions
 - Mandates increasing volume of biofuels from 2008 2022 (reaching 36 billion gallons)
 - Assumed fuel demand would climb and domestic production would decrease





¹EPA, Final Rulemaking, Renewable Fuel Standard Program: Standards for 2014, 2015, and 2016 and Biomass Based Diesel Volume for 2017 (signed November 30, 2015), p. 8, 92, 112 & 118

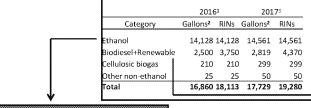
²EPA, Renewable Fuel Standard Program: Standards for 2017 and Biomass-Based Diesel Volume for 2018. Final Rule Pre-Publication, p. 6

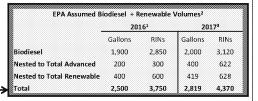
³EPA only assumes 13,908 and 14,348 gallons in 2016 and 2017, respectively, of the Additional Renewable Fuels to come from conventional (corn) ethanol. 600 gallons is assumed to come from the nesting effect caused by additional sales of biomass based diesel beyond the Biomass Based Diesel and Total Advanced RVOs.

2016 Final RVOs1 2017 Final³

In Millions of Gallons

EPA Assumed Sources to Meet RVOs





EPA Assumed Ethanol Sources	1.2.8	
2016	2017	
Cellulosic 20	13	Ethanol as % of Gasoline ⁷
Brazilian Sugarcane 200	200	2016 10.21%
Core 13,908	14,348	2017 10 14%
Total 14,128	14,561	

	Assump	tions Versus Realit	У
	EPA Fuel Volume Assumptions ²		Actual Fuel Demand 2015 ²
	2016 ¹	20173	
EO	200	200-500	5,300*
E15	320	600-1,200	Less than 1005
E85	200	200-330	Less than 100 ⁶
	E10 makes up the	e remaining ethanol fuel	volume
BBD (RINS)	3,750	4,370	3,281 ⁸

Renewable Fuel Standard Program: Standards for 2014, 2015, and 2016 and Biomass-Based Diesel Volume for 2017; Final Rule, 80 § 239 (2015),pp. 77420-77518

Willions of gallons or RINS equivalent

³Renewable Fuel Standard Program: Standards for 2017 and Biomass-Based Diesel Volume for 2018; Final

²Renewable Fuel Standard Program: Standards for 2017 and Biomass-Based Diesel Volume for 2018; Final Rule Pre-Publication

³U.S. Energy Information Administration (EIA), http://www.eia.gov/todayinenergy/detail.cfm?id=26092&src=email#

⁵Calculated from the following sources: Renewable Fuels Association (RFA) cites E15 sales typically average 20% of overall sales at stations that offer E15

[https://cleancities.energy.gov/files/u/news_events/document_ur/32/ethanol_webinar.pdf)

Growth Energy cites 251 Fetail locations selling E15 (http://www.ethanolretailer.com/e15-resource-center) National Association of Convenience Stores cites average convenience store in 2011 sold 128,000 gallons of fuel per month

(http://www.nacsonline.com/yourbusiness/fuelsreports/gasprices_2013/pages/statisticsdefinitions.aspx)

gallons of tuel per month
(http://www.nacsonline.com/yourbusiness/fuelsreports/gasprices_2013/pages/statisticsdefinitions.aspx)

*Energy Information Administration

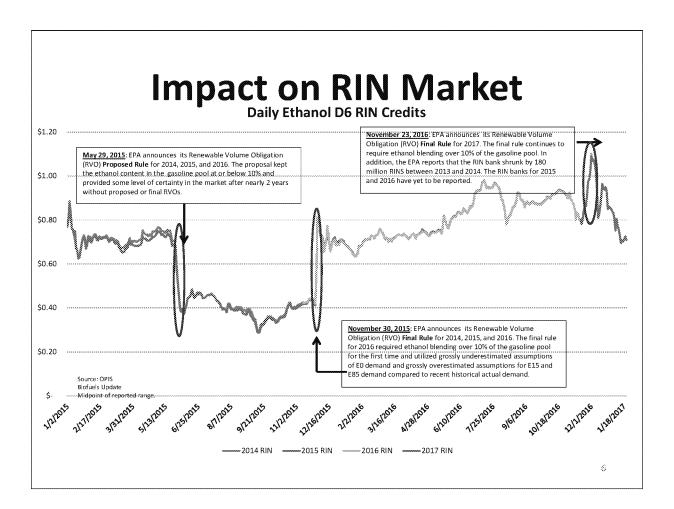
*Calculated by dividing EM's projected gasoline demand by EPA's Total Assumed Ethanol volume.

*BPA 2015 Renewable Fuel Standard Data https://www.epa.gov/fuels-registration-reporting-and
compliance-help/2015-renewable-fuel-standard-data

Assumptions versus Reality

- Every 1 billion gallons of E0 over the EPAs assumption will require an additional 140 million gallons of E85 sales in 2016 and 2017 in order to meet the RVOs.
- Amount of additional E85 sales needed in order to account for the EPAs inadequate E0 demand assumptions:
 - ~700 million gallons per year
- Amount of additional E85 sales needed in order to account for EPAs dependence on bio-mass based diesel nesting effect to meet RVO:
 - ~800 million gallons per year
- Total amount of additional E85 sales needed in order to meet RVO:
 - ~1.5 billion gallons per year

5



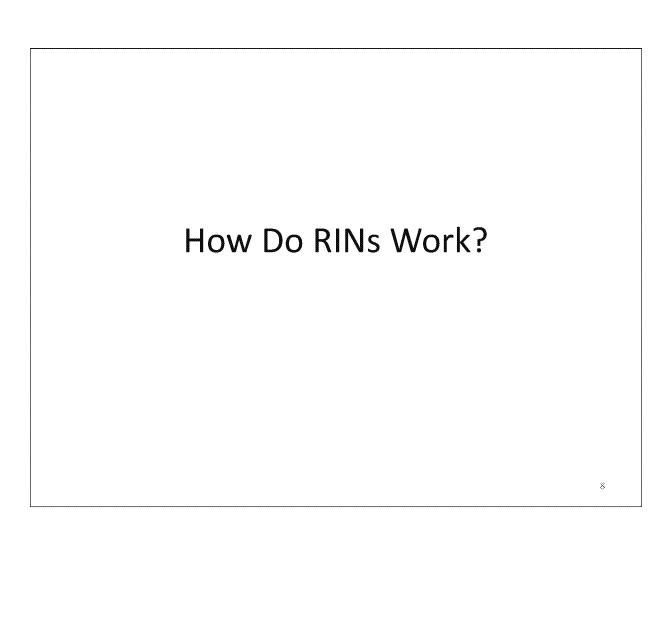
Impact on RIN Bank

Available RIN Ba	nk After Compliance Demonstration	
Year	Millions of available RINs in RIN E	Bank
2012	2,700	
2013	1,720	
2014	1,540	

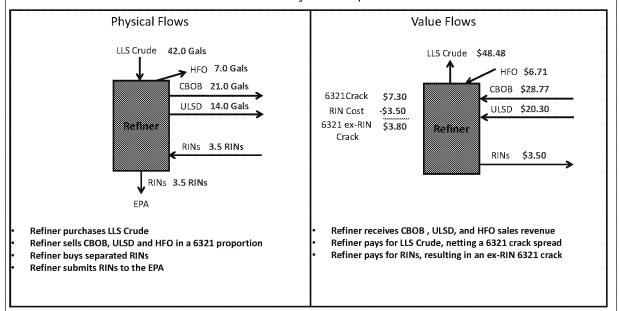
- "There remains considerable uncertainty surrounding this number since compliance demonstrations still need to be made for the 2015 and 2016 RFS standards, and it is unclear at this time whether some portion of the 1.54 billion carryover RINs we estimate will be available for the 2017 compliance demonstrations will be used for compliance prior to 2017¹⁷
- Enforcement actions in past years have resulted in retirement of RINs that were fraudulently generated and may impact the RIN Bank.

 ${}^{2}\!Renewable\ Fuel\ Standard\ Program:\ Standards\ for\ 2017\ and\ Biomass-Based\ Diesel\ Volume\ for\ 2018;\ Final\ Rule\ Pre-Publication$

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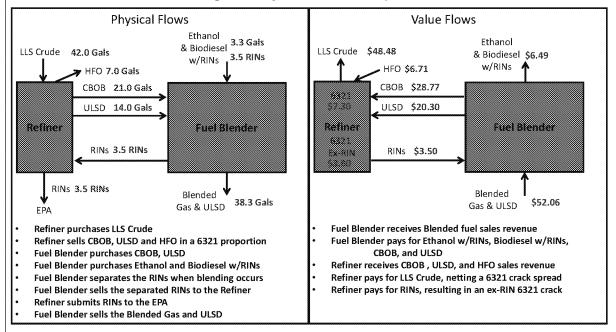


Merchant Refiner Perspective



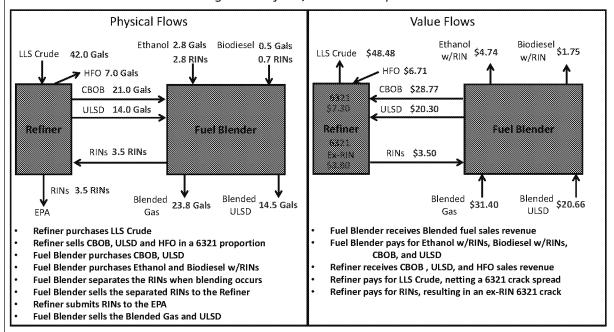
Refiners realize the crack spread after paying RIN costs

Integrated Refiner/Blender Perspective



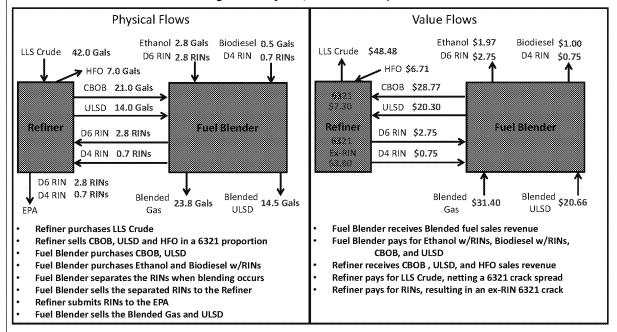
RIN costs are recovered by Refiners through an increased Crack Spread

Integrated Refiner/Blender Perspective



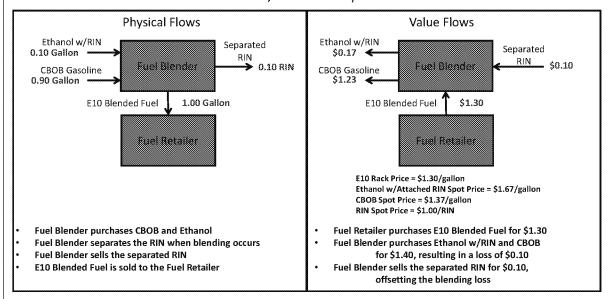
RIN costs are recovered by Refiners through an increased Crack Spread

Integrated Refiner/Blender Perspective



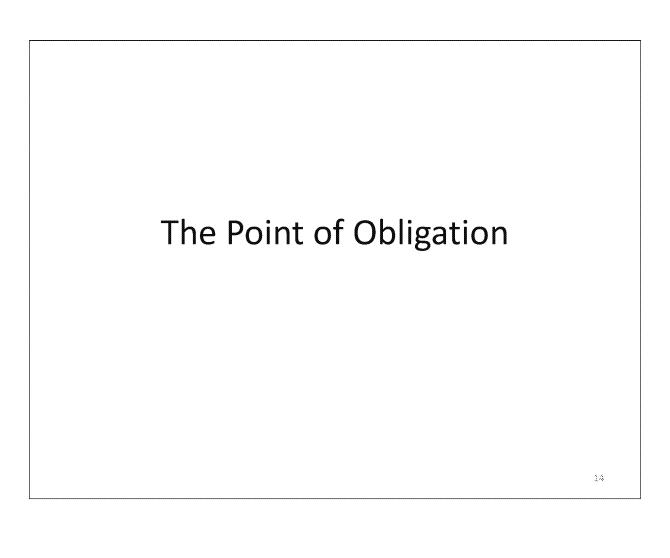
RIN costs are recovered by Refiners through an increased Crack Spread

Blender/Retailer Perspective



Revenue from the RIN sale is <u>not</u> retained by the Fuel Blender.

Rather, it is needed to offset the negative blending margin caused by the increased cost of the fuel blending components.



- In 2010, the EPA through rulemaking set refiners and importers of motor vehicle fuel as parties responsible for complying with the RFS.
- Refiners and importers are otherwise known as the obligated parties. Refineries and imports are the point of obligation.
- Each year the EPA sets Renewable Volume Obligations (RVOs). The RVOs are used by each obligated party to determine their obligation of biofuels based on their actual production/imports of gasoline and diesel.

- In 2016, a small group of independent merchant refiners petitioned the EPA to move the point of obligation to the terminal rack.
- In November 2016, the EPA released a proposal to deny the petition to move the point of obligation and is currently taking public comment.
- Public comment is due February 22.

3.6

- Moving the point of obligation will not increase ethanol blending
 - Retail station upgrades are necessary to store and dispense gasoline-ethanol blends greater than 10% (E10).
 - Consumer demand and vehicle fleet constrain the ability to increase ethanol blending.

- Moving the point of obligation to the terminal rack may compromise the integrity of the RIN program.
 - Moving the point of obligation to the terminal rack will significantly increase the number of facilities and transactions subject to regulation.
 - Current obligated parties have developed the expertise and experience to protect the integrity of the RIN.

	2	3	4	5	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Conventional Biofuels					12	12.6	13.2	13.8	14.4	15	15	15	15	15	15	15
Cellulosic Advanced					0.005	0.25	0.5	1	1.75	3	4.25	5.5	7	8.5	10.5	13.5
Non-Cellulosic Advanced					0.3	0.3	0.5	0.75	1	1.5	2	2.5	3	3.5	3.5	3.5
Biomass-Based Diesel					0.66	0.8	1	1	1	1	1	1	1	1	1	1

	2004	2005	2006	2007	2008	2009	2010
AEO 2007	139.5766313	140.4034264	141.2147391	142.287118	143.0809893	144.7215386	146.1034631
AEO 2008		140.4045814	141.8449121	142.5029213	143.67818	145.8574553	146.9683282
AEO 2009			141.8450437	142.3502757	137.4150898	135.8050521	144.5834835
AEO 2010				142.349827	137.784415	138.0264757	141.370378
AEO 2011					137.7980281	137.9162224	138.2540802
AEO 2012						137.9150573	137.8542125
AEO 2013							137.846011
AEO 2014							
AEO 2015							
AEO 2016							

2011	2012	2013	2014	2015	2016	2017	2018
147.8248016	149.6664028	151.6101526	153.8579218	156.091656	158.3774222	160.683466	163.0093928
147.511294	148.4592582	149.4461843	149.8721914	149.1909221	148.8727069	148.019757	147.090243
148.128894	147.7777988	146.7554782	145.3417847	143.2066175	140.8067582	138.9290607	136.5516428
144.7436831	145.0735234	144.6143439	144.07738	143.6246851	142.4832287	142.4971943	141.7228607
139.3103786	143.087016	143.8045214	144.0089776	144.1562069	144.3959834	143.4834805	142.4629011
134.2515859	134.5725347	137.9690802	137.151562	136.1712698	135.1220386	134.0023201	132.1753367
134.0503643	133.850829	133.8004853	131.9121206	131.1530403	130.5674189	129.935363	129.3067257
134.2048447	133.5290063	133.4433729	132.9430017	134.4623274	133.7530389	132.8424369	131.5043579
	133.1863961	135.7326018	137.3161755	138.2387502	137.6299193	134.0201489	132.8094621
			137.0002089	140.7523643	142.0270385	142.0397164	141.3395187

2019	2020	2021	2022	2023	2024	2025	2026
165.1932002	167.5837759	169.9810329	172.2489336	174.6876377	177.0810789	179.4460406	182.0900802
144.4694928	141.6664625	139.0390749	135.1656247	135.3078318	135.3107704	135.5824945	135.8625811
134.949339	132.8522856	131.3632416	128.5907522	128.662594	129.2252088	129.101949	129.1363641
141.7528768	141.6627517	141.4892161	139.8240869	141.1095687	142.1733174	142.800483	143.0745834
141.5980438	140.9058023	141.6254692	139.8951874	138.5458561	136.418696	135.9107824	136.257731
131.1767864	129.9391496	128.4539485	127.8502991	127.4883425	127.2640339	127.0313705	126.6154369
128.5264747	127.8104411	126.2373531	124.4709845	122.8612426	121.0013303	119.2381504	117.6279332
129.7760997	127.9951369	126.126226	124.1768632	122.0741697	119.9036103	117.6180913	115.5609893
131.4859006	130.0767823	128.5321315	126.8673395	125.0197066	123.0646103	120.956812	119.0512777
139.4733365	137.5515063	134.9648141	132.2483534	129.4830207	126.6975444	123.8089892	121.0666668

2027	2028	2029	2030
184.6400997	187.0775612	189.6136042	192.0665773
135.7600815	135.9785895	136.5457072	136.6439963
127.3467803	127.2712689	125.8918736	126.3025006
143.3622662	143.053612	142.4751651	143.2639856
136.3519952	136.778721	136.0050619	137.1685323
126.4157483	125.5197405	125.5742846	125.3120803
116.0022786	114.6769848	113.5195391	112.5231505
113.7203928	112.1501409	110.7591734	109.5523651
117.3909007	115.9528547	114.6727844	113.5419056
118.5542024	116.3478168	114.3849636	112.6807889

	2017 DIN	2015 RIN	2016 DINI	2017 DIN
1/2/2015	0.775	0.77	ZOTO VIIN	2017 KIN
1/5/2015	0.773	0.805		
1/6/2015	0.815	0.803		
1/7/2015	0.835	0.873		
1/8/2015	0.76	0.76		
1/9/2015	0.7575	0.755		
1/12/2015	0.7375	0.7325		
1/13/2015	0.7075			
1/14/2015	0.6725	0.6675		
1/15/2015	0.6625	0.6625		
1/16/2015	0.635	0.625		
1/20/2015	0.635	0.63		
1/21/2015	0.66	0.655		
1/22/2015	0.69			
1/23/2015	0.715	0.715		
1/26/2015	0.73	0.725		
1/27/2015	0.72	0.71		
1/28/2015	0.68	0.67		
1/29/2015	0.695	0.685		
1/30/2015	0.7275	0.7225		
2/2/2015	0.7125	0.705		
2/3/2015	0.725	0.715		
2/4/2015	0.71	0.6975		
2/5/2015	0.7125	0.7125		
2/6/2015	0.73	0.725		
2/9/2015	0.735	0.7275		
2/10/2015	0.735	0.725		
2/11/2015	0.7175	0.71		
2/12/2015	0.7175	0.7075		
2/13/2015	0.7225	0.7175		
2/17/2015	0.725	0.7175		
2/18/2015	0.72	0.7138		
2/19/2015	0.72	0.715		
2/20/2015	0.7213	0.7175		
2/23/2015	0.725	0.7225		
2/24/2015	0.725	0.72		
2/25/2015	0.73	0.7225		
2/26/2015	0.7175	0.7138		
2/27/2015	0.7075	0.7		
3/2/2015	0.715	0.705		
3/3/2015	0.72	0.71		
3/4/2015	0.715	0.71		
3/5/2015	0.715	0.71		
3/6/2015	0.7125	0.7		
3/9/2015	0.705	0.6925		
3/10/2015	0.7075	0.6975		
3/11/2015	0.705	0.6975		
3/12/2015	0.6925	0.68		
3/13/2015	0.6775	0.6675		
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3/16/2015	0.675	0.665
3/17/2015	0.6725	0.6525
3/18/2015	0.675	0.655
3/19/2015	0.675	0.655
3/20/2015	0.6825	0.6663
3/23/2015	0.6875	0.67
3/24/2015	0.69	0.675
3/25/2015	0.7	0.6875
3/26/2015	0.7175	0.7063
3/27/2015	0.6975	0.6875
3/30/2015	0.705	0.6925
3/31/2015	0.7	0.6863
4/1/2015	0.705	0.6838
4/2/2015	0.705	0.6825
4/6/2015	0.703	0.6813
4/7/2015	0.7025	0.6825
4/8/2015	0.7025	0.6825
4/9/2015	0.703	0.685
4/10/2015	0.71	0.6863
4/13/2015	0.7175	0.6988
4/14/2015	0.7525	0.725
4/15/2015	0.7323	0.723
4/15/2015	0.7423	0.713
4/10/2015	0.7375	0.7105
	0.7323	0.7125
4/20/2015	0.7336	0.7073
4/21/2015	0.7273	0.7063
4/22/2015	0.73	
4/23/2015		0.7125
4/24/2015	0.725	0.715
4/27/2015	0.7475	0.7213
4/28/2015	0.7463	0.7238
4/29/2015	0.75	0.725
4/30/2015	0.7475	0.7325
5/1/2015	0.76	0.74
5/4/2015	0.7675	0.7475
5/5/2015	0.7638	0.7488
5/6/2015	0.7625	0.7463
5/7/2015	0.75	0.7325
5/8/2015	0.75	0.7363
5/11/2015	0.75	0.7313
5/12/2015	0.7413	0.725
5/13/2015	0.745	0.7213
5/14/2015	0.75	0.73
5/15/2015	0.755	0.74
5/18/2015	0.75	0.7313
5/19/2015	0.7525	0.7275
5/20/2015	0.73	0.7075
5/21/2015	0.7025	0.6825
5/22/2015	0.705	0.69
5/26/2015	0.705	0.6875

5/27/2015	0.68	0.6575
5/28/2015	0.605	0.5875
5/29/2015	0.53	0.5225
6/1/2015	0.465	0.4625
6/2/2015	0.415	0.405
6/3/2015	0.3825	0.3825
6/4/2015	0.3925	0.3963
6/5/2015	0.3775	0.3775
6/8/2015	0.375	0.375
6/9/2015	0.395	0.395
6/10/2015	0.4125	0.4125
6/11/2015	0.4413	0.4413
6/12/2015	0.4475	0.4475
6/15/2015	0.45	0.45
6/16/2015	0.4588	0.4588
6/17/2015	0.485	0.485
6/18/2015	0.4675	0.4675
6/19/2015	0.445	0.445
6/22/2015	0.4513	0.4513
6/23/2015	0.4588	0.4588
6/24/2015	0.47	0.47
6/25/2015	0.46	0.46
6/26/2015	0.47	0.47
6/29/2015	0.4688	0.4688
6/30/2015	0.46	0.46
7/1/2015	0.445	0.445
7/2/2015	0.445	0.445
7/6/2015	0.4475	0.4475
7/7/2015	0.4513	0.4513
7/8/2015	0.4575	0.4575
7/9/2015	0.46	0.4588
7/10/2015	0.4575	0.4575
7/13/2015	0.4625	0.4625
7/14/2015	0.465	0.46
7/15/2015	0.4575	0.4575
7/16/2015	0.4525	0.455
7/17/2015	0.4475	0.4475
7/20/2015	0.4413	0.4413
7/21/2015	0.4325	0.4325
7/22/2015	0.4325	0.4325
7/23/2015	0.4238	0.4213
7/24/2015	0.42	0.415
7/27/2015	0.4025	0.4025
7/28/2015	0.3925	0.3928
7/29/2015	0.4	0.4
7/30/2015	0.395	0.395
7/31/2015	0.39	0.39
8/3/2015	0.38	0.3813
8/4/2015	0.415	0.415
8/5/2015	0.42	0.4138

8/6/2015	0.415	0.405
8/7/2015	0.3975	0.3925
8/10/2015	0.3975	0.395
8/11/2015	0.3975	0.39
8/12/2015	0.395	0.39
8/13/2015	0.4	0.3875
8/14/2015	0.405	0.3913
8/17/2015	0.3975	0.39
8/18/2015	0.4038	0.3938
8/19/2015	0.4038	0.3925
8/20/2015	0.4025	0.3913
8/21/2015	0.395	0.385
8/24/2015	0.39	0.375
8/25/2015	0.3875	0.3738
8/26/2015	0.39	0.3688
8/27/2015	0.38	0.37
8/28/2015	0.395	0.38
8/31/2015	0.3938	0.3863
9/1/2015	0.395	0.38
9/2/2015	0.385	0.3625
9/3/2015	0.3775	0.3575
9/4/2015	0.3625	0.3488
9/8/2015	0.3525	0.3425
9/9/2015	0.3488	0.3338
9/10/2015	0.3213	0.3113
9/11/2015	0.3025	0.2925
9/14/2015	0.2975	0.2875
9/15/2015	0.3	0.29
9/16/2015	0.32	0.31
9/17/2015	0.3275	0.32
9/1/8/2015	0.3263	0.3225
9/21/2015	0.3325	0.3263
9/22/2015	0.3425	0.335
9/23/2015	0.35	0.3413
9/24/2015	0.355	0.3488
9/25/2015	0.3625	0.3563
9/28/2015	0.3575	0.355
9/29/2015	0.3625	0.3538
9/30/2015	0.355	0.35
10/1/2015	0.355	0.3463
10/2/2015	0.3513	0.345
10/5/2015	0.3475	0.34
10/6/2015	0.34	0.3325
10/7/2015	0.3425	0.335
10/8/2015	0.345	0.34
10/9/2015	0.3513	0.3475
10/12/2015	0.3588	0.3525
10/13/2015	0.3613	0.3563
10/14/2015	0.3613	0.355
10/15/2015	0.365	0.3588

10/16/2015	0.3675	0.36	
10/19/2015	0.3775	0.3725	
10/20/2015	0.3975	0.3925	
10/21/2015	0.41	0.405	
10/22/2015	0.4225	0.415	
10/23/2015	0.425	0.4175	
10/26/2015	0.4075	0.405	
10/27/2015	0.40025	0.3975	
10/28/2015	0.395	0.395	
10/29/2015	0.405	0.4	
10/30/2015	0.4013	0.3963	
11/2/2015	0.405	0.4	
11/3/2015	0.415	0.4075	
11/4/2015	0.4125	0.4075	
11/5/2015	0.4175	0.4113	
11/6/2015	0.4175	0.4125	
11/9/2015	0.4225	0.4175	
11/10/2015	0.4263	0.4175	0.425
11/11/2015	0.425	0.4188	0.4225
11/12/2015	0.4225	0.4175	0.425
11/13/2015	0.425	0.4188	0.425
11/16/2015	0.43	0.425	0.43
11/17/2015	0.44	0.435	0.44
11/18/2015	0.4425	0.4375	0.4425
11/19/2015	0.4425	0.435	0.44
11/20/2015	0.4413	0.435	0.44
11/23/2015	0.4388	0.4338	0.4388
11/24/2015	0.4225	0.4188	0.4238
11/25/2015	0.42	0.4125	0.4238
11/30/2015	0.5175	0.5125	0.5175
12/1/2015	0.795	0.805	0.8125
12/2/2015	0.8075	0.8025	0.8125
12/3/2015	0.7725	0.8023	0.8075
12/4/2015	0.7725	0.7175	0.775
12/4/2015	0.7273	0.7173	0.715
12/8/2015	0.715	0.725	0.725
12/9/2015	0.715	0.705	0.705
12/9/2015	0.6623	0.6825	0.6825
			0.0623
12/11/2015	0.7088 0.74	0.7	0.7
12/14/2015		0.735	0.7375
12/15/2015	0.7413	0.7375	
12/16/2015	0.6825	0.68	0.68
12/17/2015	0.66	0.6575	0.6575
12/18/2015	0.685	0.68	0.68
12/21/2015	0.7075	0.6988	0.6988
12/22/2015	0.715	0.7075	0.7075
12/23/2015	0.7225	0.7175	0.7125
12/24/2015	0.7	0.7	0.6875
12/28/2015	0.7025	0.7	0.685
12/29/2015	0.7025	0.6975	0.6875

12/30/2015	0.7025	0.6975	0.6875
1/4/2016	0.7075	0.705	0.7
1/5/2016	0.7125	0.71	0.7088
1/6/2016	0.705	0.7025	0.7
1/7/2016	0.705	0.695	0.695
1/8/2016	0.6913	0.6913	0.6875
1/11/2016	0.6875	0.685	0.6838
1/12/2016	0.6825	0.68	0.6775
1/13/2016	0.68	0.6775	0.6763
1/14/2016	0.6738	0.6713	0.67
1/15/2016	0.6675	0.665	0.6638
1/19/2016	0.66	0.6575	0.6575
1/20/2016	0.655	0.65	0.65
1/21/2016	0.645	0.6438	0.6438
1/22/2016	0.6375	0.635	0.6338
1/25/2016	0.6375	0.6338	0.6338
1/26/2016	0.64	0.6375	0.6375
1/27/2016	0.65	0.6475	0.6475
1/28/2016	0.68	0.675	0.675
1/29/2016	0.6825	0.6775	0.6775
2/1/2016	0.6838	0.6813	0.6813
2/2/2016	0.6888	0.6863	0.6863
2/3/2016	0.7025	0.7	0.7
2/4/2016	0.705	0.7025	0.7025
2/5/2016	0.7125	0.71	0.71
2/8/2016	0.7075	0.7075	0.7075
2/9/2016	0.715	0.7125	0.7125
2/10/2016	0.7125	0.7138	0.7123
2/11/2016	0.7125	0.7175	0.7163
2/11/2016	0.7123	0.7173	0.7275
2/16/2016	0.7203	0.7203	0.7273
2/17/2016	0.725	0.725	0.725
2/17/2016	0.725	0.725	0.725
2/18/2016	0.713	0.713	0.713
2/22/2016	0.7238	0.7238	0.7203
2/23/2016	0.7325	0.7325	0.7325
2/23/2016 2/24/2016	0.7325	0.7325	0.7325
	0.7423	0.7423	0.7425
2/25/2016 2/26/2016	0.7575	0.7575	0.75
	0.7323		
2/29/2016		0.7438	0.745
3/1/2016	0.74	0.74	0.7425
3/2/2016	0.7313	0.7288	0.7313
3/3/2016	0.7175	0.7125	0.715
3/4/2016	0.7188	0.7175	0.7175
3/7/2016	0.715	0.715	0.715
3/8/2016	0.7	0.7	0.7
3/9/2016	0.7125	0.7125	0.7125
3/10/2016	0.715	0.7163	0.715
3/11/2016	0.7013	0.7025	0.7025
3/14/2016	0.7113	0.7113	0.7113

3/15/2016	0.7175	0.7175	0.715
3/16/2016	0.72	0.72	0.7175
3/17/2016	0.725	0.725	0.725
3/18/2016	0.73	0.73	0.73
3/21/2016	0.7325	0.7338	0.7325
3/22/2016	0.7325	0.7325	0.7325
3/23/2016	0.73	0.73	0.73
3/24/2016	0.7313	0.7313	0.7313
3/28/2016	0.7288	0.73	0.7288
3/29/2016	0.7375	0.7375	0.7375
3/30/2016	0.735	0.735	0.735
3/31/2016	0.73	0.73	0.73
4/1/2016	0.7238	0.7238	0.7225
4/4/2016	0.7188	0.7188	0.7175
4/5/2016	0.7175	0.715	0.7125
4/6/2016	0.72	0.72	0.7188
4/7/2016	0.73	0.73	0.73
4/8/2016	0.735	0.735	0.735
4/11/2016	0.7375	0.7388	0.7375
4/12/2016	0.7275	0.73	0.7275
4/13/2016	0.7138	0.715	0.7138
4/14/2016	0.73	0.7325	0.73
4/15/2016	0.7338	0.7338	0.7338
4/18/2016	0.735	0.7363	0.735
4/19/2016	0.7375	0.74	0.7375
4/20/2016	0.7413	0.745	0.7413
4/21/2016	0.7575	0.7525	0.7475
4/22/2016	0.75	0.75	0.7463
4/25/2016	0.75	0.75	0.745
4/26/2016	0.7463	0.745	0.7438
4/27/2016	0.7425	0.7425	0.7388
4/28/2016	0.7325	0.7325	0.73
4/29/2016	0.7325	0.7325	0.7275
5/2/2016	0.735	0.7325	0.7275
5/3/2016	0.7425	0.7413	0.735
5/4/2016	0.7475	0.745	0.74
5/5/2016	0.7488	0.745	0.7425
5/6/2016	0.745	0.745	0.7425
5/9/2016	0.745	0.745	0.7413
5/10/2016	0.7488	0.7488	0.7463
5/11/2016	0.7525	0.75	0.7475
5/12/2016	0.755	0.7525	0.75
5/13/2016	0.755	0.7525	0.75
5/16/2016	0.7513	0.7513	0.7463
5/17/2016	0.7413	0.7413	0.7375
5/18/2016	0.795	0.795	0.79
5/19/2016	0.82	0.82	0.8175
5/20/2016	0.795	0.795	0.7925
5/23/2016	0.7825	0.7825	0.78
5/24/2016	0.77	0.77	0.7675
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5/25/2016	0.765	0.765	0.7625
5/26/2016	0.78	0.78	0.7775
5/27/2016	0.7963	0.7963	0.7938
5/31/2016	0.805	0.805	0.8025
6/1/2016	0.81	0.81	0.8075
6/2/2016	0.82	0.82	0.8175
6/3/2016	0.815	0.815	0.8125
6/6/2016	0.8188	0.8188	0.8163
6/7/2016	0.8288	0.8288	0.8263
6/8/2016	0.8375	0.8375	0.835
6/9/2016	0.8375	0.8375	0.835
6/10/2016	0.8275	0.8275	0.8275
6/13/2016	0.8275	0.8288	0.8263
6/14/2016	0.835	0.835	0.8325
6/15/2016	0.8525	0.8525	0.85
6/16/2016	0.8425	0.8425	0.84
6/17/2016	0.8388	0.8388	0.8363
6/20/2016	0.8325	0.8325	0.83
6/21/2016	0.84	0.84	0.8375
6/22/2016	0.8488	0.8488	0.8463
6/23/2016	0.8625	0.8625	0.86
6/24/2016	0.86	0.86	0.8575
6/27/2016	0.865	0.865	0.8625
6/28/2016	0.8788	0.8813	0.8788
6/29/2016	0.9188	0.9175	0.915
6/30/2016	0.9213	0.92	0.92
7/1/2016	0.935	0.935	0.9325
7/5/2016	0.935	0.935	0.9325
7/6/2016	0.935	0.935	0.9325
7/7/2016	0.9375	0.9363	0.9338
7/8/2016	0.9413	0.9413	0.9388
7/11/2016	0.9725	0.9725	0.97
7/12/2016	0.9725	0.9725	0.97
7/13/2016	0.9788	0.98	0.9775
7/14/2016	0.9638	0.9638	0.9613
7/15/2016	0.9463	0.9463	0.9438
7/18/2016	0.9463	0.9463	0.9438
7/19/2016	0.9488	0.9488	0.9463
7/20/2016	0.945	0.945	0.9425
7/21/2016	0.9475	0.9475	0.945
7/22/2016	0.9488	0.948	0.9463
7/25/2016	0.9538	0.9538	0.9513
7/26/2016	0.97	0.97	0.9675
7/27/2016	0.9663	0.9663	0.9638
7/28/2016	0.96	0.96	0.9575
7/29/2016	0.9525	0.9525	0.9538
8/1/2016	0.9488	0.9488	0.9463
8/2/2016	0.9388	0.9388	0.9363
8/3/2016	0.915	0.915	0.9125
8/4/2016	0.89	0.89	0.8875
			_

8/5/2016	0.8863	0.8863	0.8838
8/8/2016	0.8625	0.8625	0.86
8/9/2016	0.8375	0.8375	0.835
8/10/2016	0.7825	0.7825	0.78
8/11/2016	0.7925	0.7925	0.79
8/12/2016	0.8125	0.8125	0.81
8/15/2016	0.8213	0.8213	0.8188
8/16/2016	0.8238	0.825	0.8225
8/17/2016	0.8425	0.8425	0.84
8/18/2016	0.8588	0.8588	0.8563
8/19/2016	0.8625	0.8625	0.86
8/22/2016	0.87	0.87	0.8675
8/23/2016	0.885	0.885	0.8825
8/24/2016	0.92	0.92	0.9175
8/25/2016	0.925	0.925	0.9225
8/26/2016	0.915	0.9163	0.9125
8/29/2016	0.8975	0.8975	0.895
8/30/2016	0.8925	0.8925	0.89
8/31/2016	0.89	0.89	0.8875
9/1/2016	0.8775	0.8775	0.875
9/2/2016	0.8613	0.8613	0.8588
9/6/2016	0.8725	0.8725	0.87
9/7/2016	0.8838	0.8838	0.8813
9/8/2016	0.88	0.88	0.8775
9/9/2016	0.8725	0.8725	0.87
9/12/2016	0.875	0.875	0.8725
9/13/2016	0.8775	0.8775	0.875
9/14/2016	0.8838	0.8838	0.8813
9/15/2016	0.8838	0.8838	0.8813
9/16/2016	0.875	0.875	0.8725
9/19/2016	0.875	0.875	0.8725
9/20/2016	0.8725	0.8738	0.8713
9/21/2016	0.8725	0.8725	0.87
9/22/2016	0.8725	0.8725	0.87
9/23/2016	0.8738	0.8738	0.8713
9/26/2016	0.8725	0.8725	0.87
9/27/2016	0.8775	0.8775	0.875
9/28/2016	0.8825	0.8825	0.88
9/29/2016	0.8875	0.8875	0.885
9/30/2016	0.89	0.89	0.8875
10/3/2016	0.905	0.905	0.9025
10/4/2016	0.9025	0.9025	0.9
10/5/2016	0.905	0.905	0.9025
10/6/2016	0.8988	0.8988	0.8963
10/7/2016	0.905	0.905	0.9025
10/10/2016	0.9138	0.9138	0.9113
10/11/2016	0.9188	0.9188	0.9163
10/12/2016	0.9188	0.9188	0.9163
10/13/2016	0.92	0.92	0.9175
10/14/2016	0.9225	0.9225	0.92

10/17/2016	0.9325	0.9325	0.93	
10/18/2016	0.9375	0.9375	0.935	
10/19/2016	0.9375	0.9375	0.935	
10/20/2016	0.935	0.935	0.9325	
10/21/2016	0.9325	0.9325	0.93	
10/24/2016	0.93	0.93	0.9275	
10/25/2016	0.925	0.925	0.9225	
10/26/2016	0.92	0.92	0.9225	
10/27/2016	0.915	0.915	0.9175	
10/28/2016	0.9025	0.9025	0.905	
10/31/2016	0.8988	0.8988	0.8988	
11/1/2016	0.925	0.925	0.925	
11/2/2016	0.8988	0.8988	0.8988	
11/3/2016	0.8875	0.8875	0.8875	
11/4/2016	0.88	0.88	0.88	
11/7/2016	0.8675	0.8675	0.8675	
11/8/2016	0.845	0.845	0.845	
11/9/2016	0.8	0.8	0.8	
11/10/2016	0.835	0.835	0.835	
11/11/2016	0.825	0.825	0.825	
11/14/2016	0.805	0.805	0.805	
11/15/2016	0.805	0.805	0.805	0.8025
11/16/2016	0.7875	0.7875	0.785	0.7825
11/17/2016	0.805	0.805	0.805	0.8025
11/18/2016	0.8425	0.8425	0.8425	0.84
11/21/2016	0.86	0.86	0.86	0.8575
11/22/2016	0.8675	0.8675	0.8675	0.865
11/23/2016	0.9125	0.9125	0.9125	0.9125
11/28/2016	0.975	0.975	0.975	0.975
11/29/2016	0.985	0.985	0.985	0.985
11/30/2016	1.0225	1.0225	1.0225	1.0225
12/1/2016	1.1	1.095	1.095	1.09
12/2/2016		1.0675	1.0675	1.0675
12/5/2016		1.075	1.075	1.075
12/6/2016		1.055	1.055	1.055
12/7/2016		1.025	1.025	1.025
12/8/2016		0.94	0.94	0.94
12/9/2016		0.81	0.81	0.81
12/12/2016		0.825	0.825	0.825
12/13/2016		0.86	0.86	0.86
12/14/2016		0.91	0.91	0.91
12/15/2016		0.965	0.965	0.965
12/16/2016		0.945	0.945	0.945
12/19/2016		0.9375	0.9375	0.9375
12/20/2016		0.95	0.95	0.95
12/21/2016		0.9325	0.9325	0.9325
12/23/2016		0.85	0.85	0.85
12/27/2016		0.8575	0.8575	0.86
12/28/2016		0.8575	0.8575	0.8575
12/29/2016		0.85	0.85	0.8513

12/30/2016	0.84	0.84	0.84
1/3/2017	0.835	0.835	0.835
1/4/2017	0.8075	0.8075	0.8075
1/5/2017	0.7525	0.7525	0.7525
1/6/2017	0.805	0.805	0.805
1/9/2017	0.7725	0.7725	0.7725
1/10/2017	0.7575	0.7575	0.7575
1/11/2017	0.73	0.73	0.73
1/12/2017	0.695	0.695	0.695
1/13/2017	0.705	0.705	0.7075
1/17/2017	0.7025	0.7025	0.7025
1/18/2017	0.7125	0.7125	0.7125
1/19/2017	0.725	0.725	0.725
1/20/2017	0.71	0.71	0.71

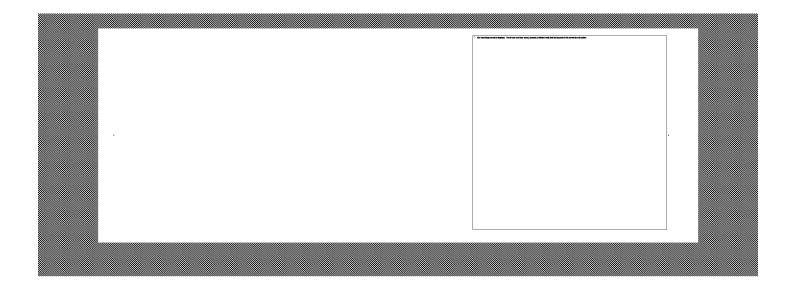
Message

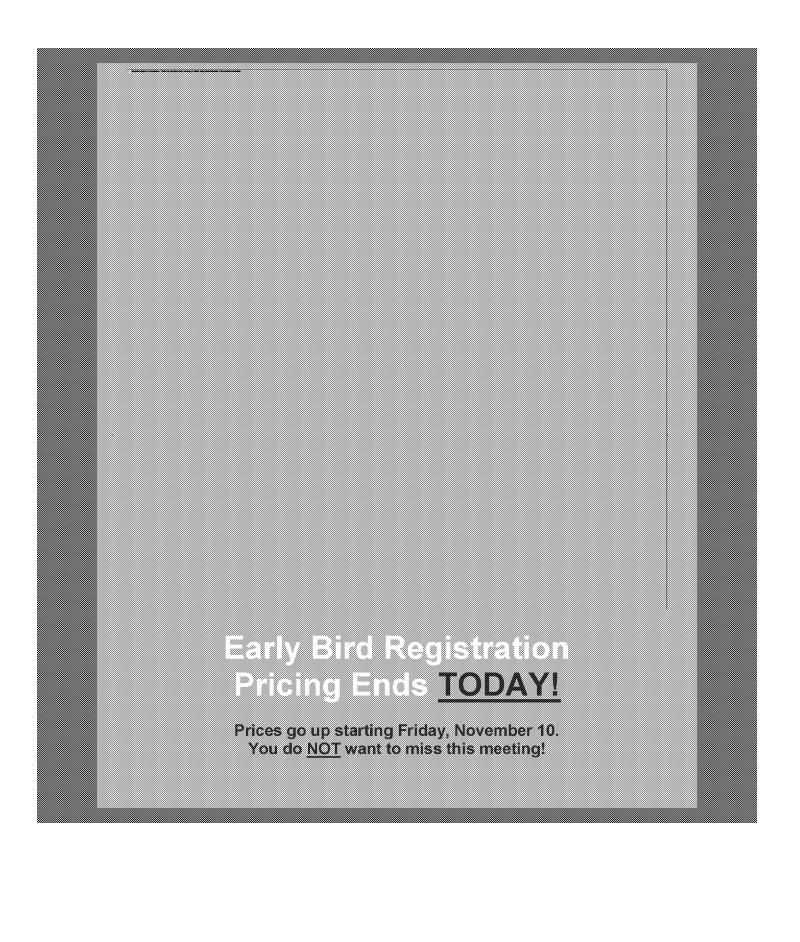
From: Courtney Cook [CCook@alec.org]

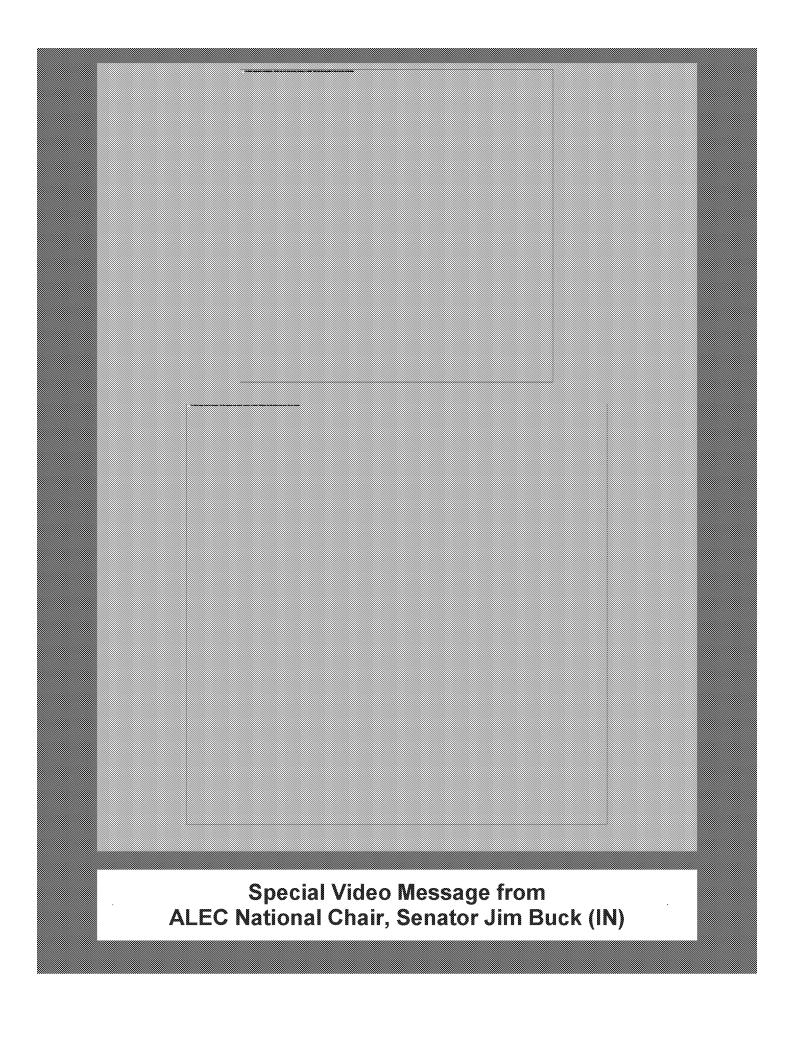
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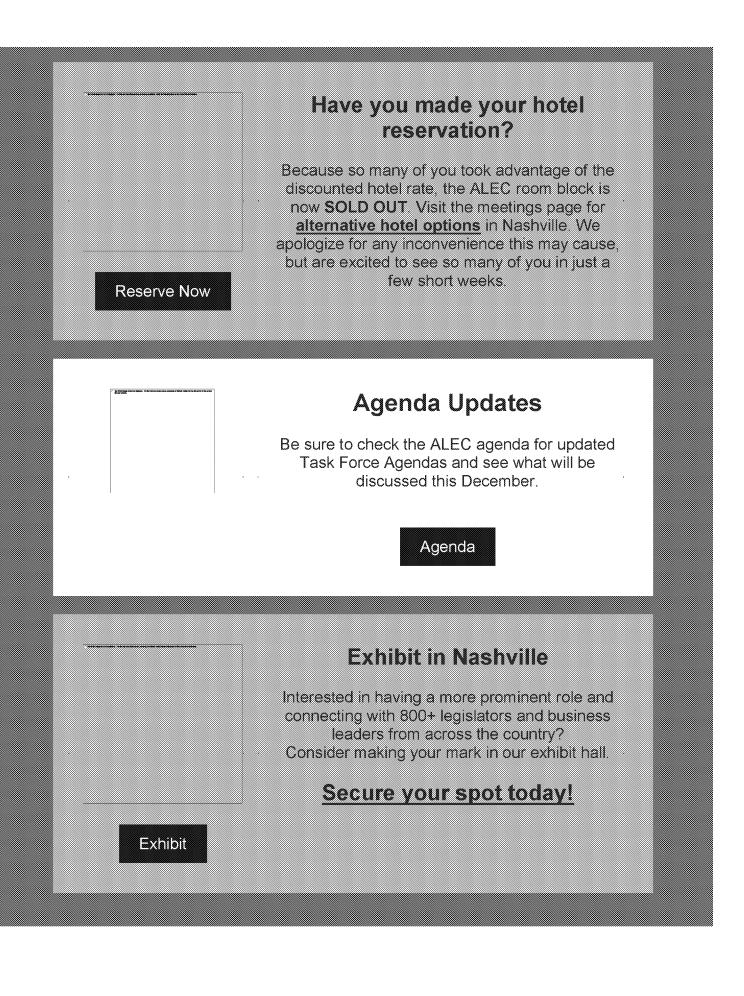
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

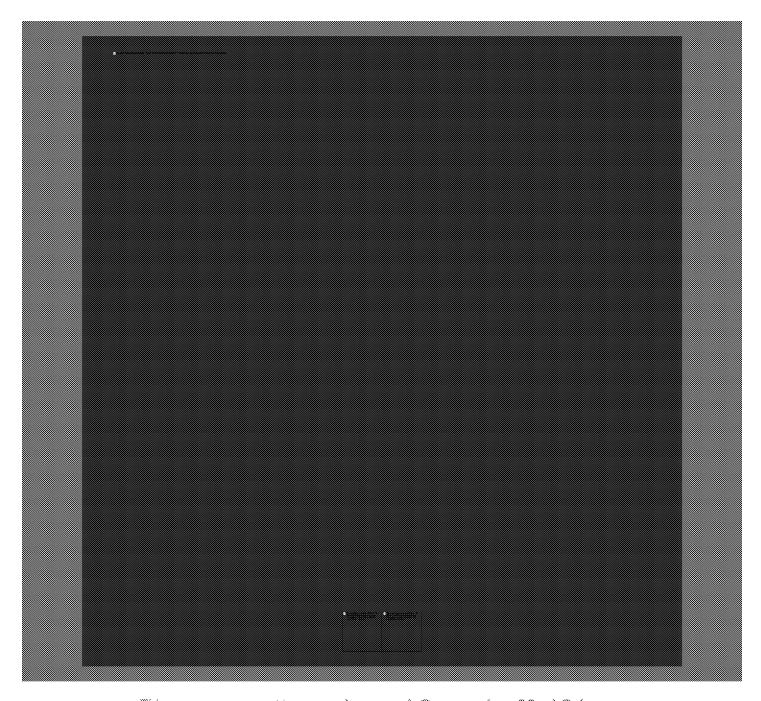
Subject: Early Bird Pricing Ends TODAY!











This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202

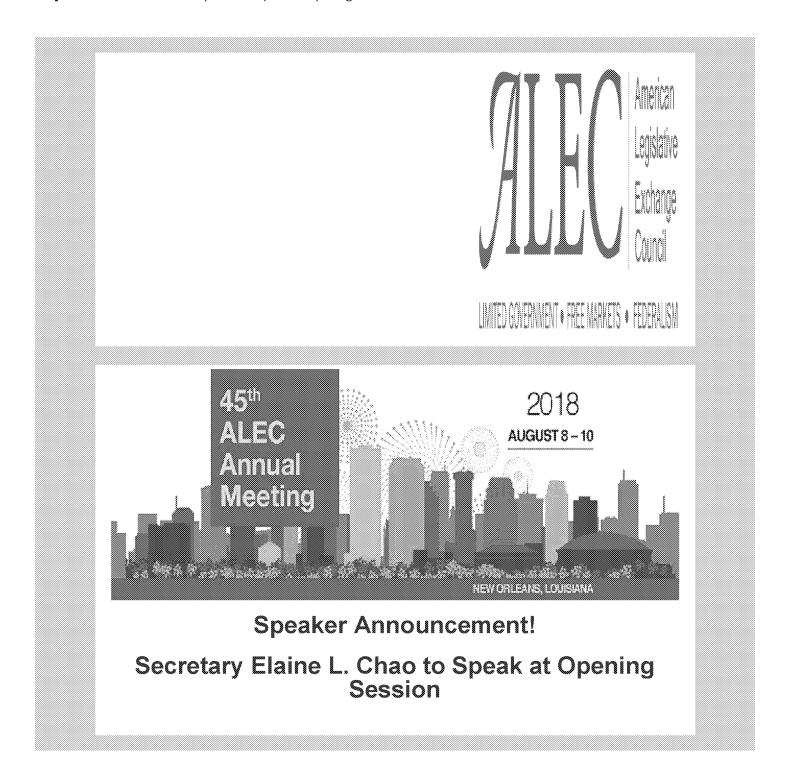


Unsubscribe

From: Courtney Cook [CCook@alec.org]

Sent: 6/20/2018 3:28:42 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: ALEC - Secretary Chao to Speak at Opening Session!





Secretary Elaine L. Chao is currently the U.S. Secretary of Transportation. Secretary Chao has a distinguished career in the public, private, and nonprofit sectors. She served as U.S. Secretary of Labor from 2001-January 2009, and is the first Asian American woman to be appointed to the President's cabinet in American history.

One Week Left for Early Bird Pricing! Register Now for the ALEC 2018 Annual Meeting

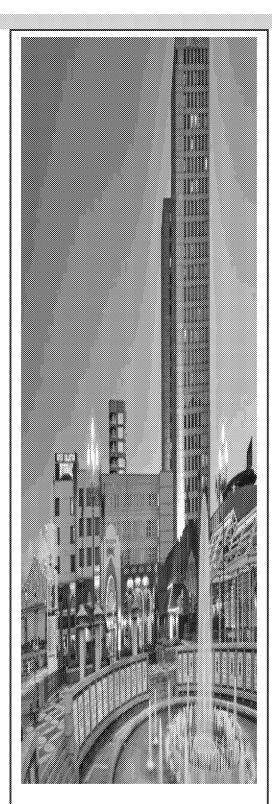
When: August 8 - 10, 2018

Where: Hilton New Orleans Riverside

New Orleans, LA



Full Conference Agenda



Make your reservation TODAY at the Hilton New Orleans Riverside

Book now through July 11, 2018*

the ALEC rate of \$159 per night.

Important Meeting Information

June 25: ALEC member policy submission deadline

June 27: Last day for Early Bird registration rates

July 10: 30-day policy and agenda notification goes out to ALEC members

July 11:

- Last day for the ALEC hotel rate
 *based on availability
- Last day for Standard registration rates
- Exhibitor application deadline

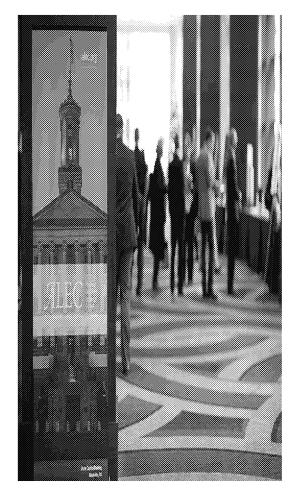
*based on availability

Book Now

ONE WEEK LEFT TO SAVE! Exhibit in New Orleans

Interested in having a more prominent role and connecting with 1500+ legislators and business leaders from across the country? Consider making your mark in our Exhibitor Hall.

Secure your spot today!



FOLLOW US







Questions? Contact us at meetings@alec.org

Unsubscribe

This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202



From: Geoffrey Moody [GMoody@afpm.org]

Sent: 6/20/2018 3:17:44 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: RE: Do you have a minute to talk?

Chet's on the road so if you guys work something out with him I won't get in the middle of it. If you can/want to touch base with you and I beforehand call my cell Ex. 8 Personal Privacy (PP) at any time.

From: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>

Sent: Wednesday, June 20, 2018 11:14 AM **To:** Geoffrey Moody <GMoody@afpm.org> **Subject:** Re: Do you have a minute to talk?

Hey Geoff,

Chet reached out as well. Bill and I will plan to call him this afternoon. What is the Best time and number?

Sent from my iPhone

On Jun 20, 2018, at 11:09 AM, Geoffrey Moody <<u>GMoody@afpm.org</u>> wrote:

Geoff Moody

Vice President Government Relations

American
Fuel & Petrochemical
Manufacturers
1800 M Street NW
Suite 900 North
Washington, DC 20006
202.457 0480 office
202.844.5489 direct
202.280.0430 mobile

gmoody@afpm.org

Learn more about AFPM at afpm.org

From: Courtney Cook [CCook@alec.org]

Sent: 7/28/2017 5:37:25 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: 2017 Annual Meeting - Thank you!





This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202



Unsubscribe

From: Geoffrey Moody [GMoody@afpm.org]

Sent: 10/24/2017 2:23:43 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: RE: Available?

Mandy, sorry again about Friday, but just wanted to follow up on this. Do you have some time to catch up this week?

From: Geoffrey Moody

Sent: Friday, October 20, 2017 7:37 PM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Subject: Re: Available?

Hey Mandy, sorry about that. I got caught in a meeting. Can we catch up next week?

Sent from my iPhone

On Oct 20, 2017, at 4:47 PM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:

Hey Geoff, I just tried your office number - is there a better number to reach you?

----Original Message-----

From: Geoffrey Moody [mailto:GMoody@afpm.org]

Sent: Friday, October 20, 2017 9:21 AM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov >

Subject: RE: Available?

That works for me

----Original Message-----

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Friday, October 20, 2017 4:48 AM To: Geoffrey Moody <<u>GMoody@afpm.org</u>>

Subject: Re: Available?

Hey Geoff, I don't have any time in the morning, but do at 4:45. Let me know if that works.

Best, Mandy

Sent from my iPhone

On Oct 19, 2017, at 11:27 PM, Geoffrey Moody <<u>GMoody@afpm.org</u>> wrote:

Mandy, are you available for a call tomorrow morning?

Sent from my iPhone

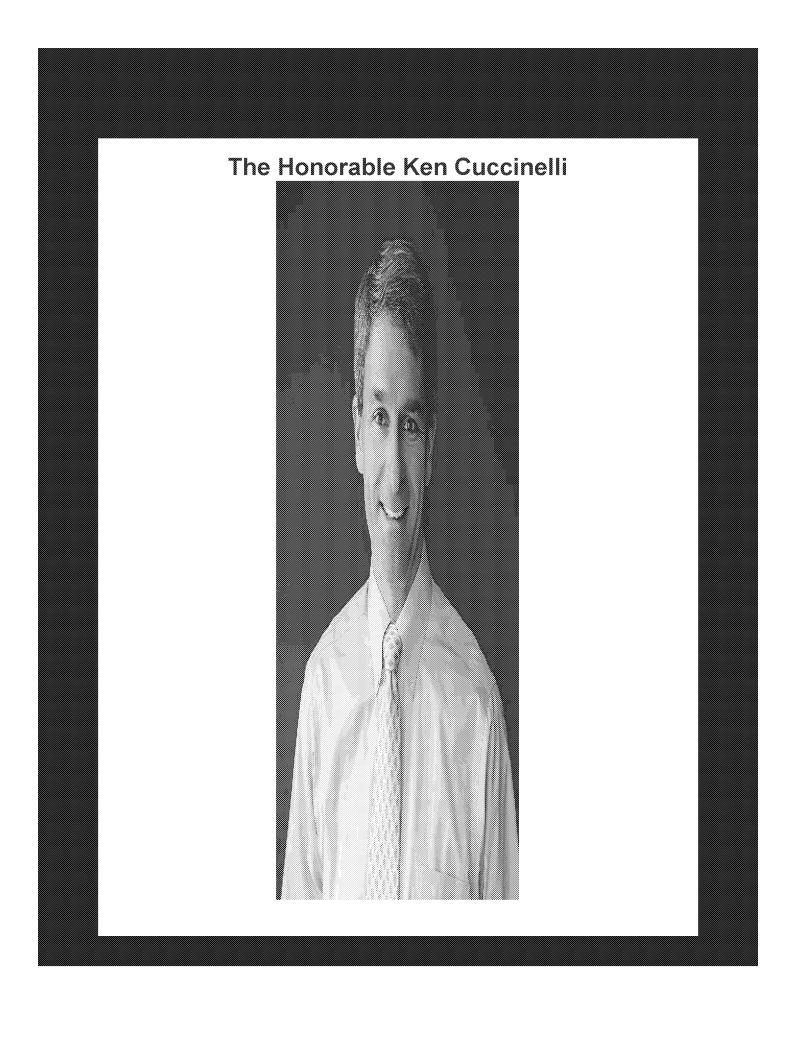
From: Courtney Cook [CCook@alec.org]

Sent: 10/18/2017 3:24:24 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Look who is joining us





Learn from former Virginia Attorney General Ken Cuccinellie about how states can address the growing national debt. Grab a hearty breakfast, and be a part of the solution!

Have you made your hotel reservation?

Book your room now as our discounted rate of \$209 is selling out QUICKLY!



Legislative Staff Fellowship

Only a few days left to have your staff take part in the Legislative Staff Fellowship. Has your staff applied?

The ALEC Legislative Staff Fellowship consists of a series of online educational sessions and a three-day program of training and networking with legislative staff members from around the country at the 2017 States and Nation Policy Summit. The purpose of the training is to promote professional development and philosophical ideals throughout their careers as legislative staffers.

Questions on applying? Contact Lacey White for more information.



This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202



Unsubscribe

From: Geoffrey Moody [GMoody@afpm.org]

Sent: 8/2/2017 5:20:09 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Time to catch up?

Mandy, do you have some time this week to catch up on a couple fuels issues?

Geoff Moody

Vice President Government Relations

American

Fuel & Petrochemical

Manufacturers

1667 K Street NW

Suite 700

Washington, DC 20006

202.457 0480 office

202.552.8489 direct

202.457.0486 fax

gmoody@afpm.org

Learn more about AFPM at afpm.org

From: Geoffrey Moody [GMoody@afpm.org]

Sent: 2/14/2018 12:46:15 AM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: AFPM Letter on State Waiver Petitions

Attachments: 20180213 AFPM Support of RFS Waiver Petitions.pdf

Mandy, I've attached a letter from Chet to AA Wehrum on the four state RFS petitions. Let me know if you have any questions.

Thanks,

Geoff Moody

Vice President Government Relations

American

Fuel & Petrochemical Manufacturers

1667 K Street NW

Suite 700 Washington, DC 20006 202.457.0480 office

202.457.0480 office 202.552.8489 direct 202.457.0486 fax

gmoody@afpm.org

Learn more about AFPM at afpm.org



Chet M. Thompson President and CEO

American
Fuel & Petrochemical
Manufacturers

1667 K Street, NW Suite 700 Washington, DC 20006

202.457.0480 office 202.602-6505 direct 202.457.0486 fax Cthompson@afpm.org

Transmitted via email

February 13, 2018

The Honorable William Wehrum Assistant Administrator U.S. Environmental Protection Agency 1200 Pennsylvania Avenue, NW Washington, DC 20460

Dear Assistant Administrator Wehrum,

Over the past several months, EPA received petitions from Pennsylvania, New Mexico, Texas, and Delaware requesting nationwide waivers from the Renewable Fuel Standard ("RFS") in order to alleviate "severe economic harm" caused by the RFS.¹ The relief sought by each of these petitions is a nationwide waiver applicable to all obligated parties, and therefore the petitions have the full support of the American Fuel & Petrochemical Manufacturers ("AFPM").²

AFPM has long maintained that the RFS disadvantages consumers and harms U.S. energy security. The limits of the fuel distribution system to accommodate increasing ethanol volumes are well-documented, and have increased compliance costs for the program. Likewise, EPA's continued insistence on utilizing foreign imports for the purpose of calculating volume obligations is compelling consumers to purchase higher-priced biodiesel and has simultaneously displaced U.S.-produced diesel with foreign fuels. For these reasons and many others, AFPM has repeatedly suggested that EPA utilize its various waiver authorities under both the "severe economic harm" and the "inadequate domestic supply" provisions cited in the state waiver petitions.

As expressed in AFPM and the American Petroleum Institute comments to the 2018 proposed RFS volumes, EPA has the authority to waive the national standards on the basis of "severe economic harm." AFPM urges EPA to grant the state waiver petitions requesting that EPA utilize its general waiver authority to reduce nationwide volume obligations for 2018, providing needed relief as Congress continues the critical task of passing comprehensive reform, and ultimately repeal, of the program.

Please contact Derrick Morgan at dmorgan@afpm.org or 202-457-0480 if you have any questions.

Sincerely.

Chet Thompson

¹ See Gov. Tom Wolf, "Petition for RFS Waiver Under CAA Section 211(o)(7)(A)(i)," Nov. 2, 2017 (Pennsylvania); Gov. Susana Martinez, "Petition for RFS Waiver Under CAA Section 211(o)(7)(A)," Nov. 22, 2017 (New Mexico); Gov. Greg Abbott, Letter to EPA Administrator Pruitt, Dec. 1, 2017 (Texas); Gov. John Carney, "Petition for RFS Waiver under CAA Section 211(o)(7)(A)(i)," Jan. 30, 2018 (Delaware).

² AFPM represents more than 95 percent of the U.S. refining industry, and its members are obligated parties under the RFS.

³ Comments submitted by AFPM and the American Petroleum Institute to *Renewable Fuel Standard Program:* Standards for 2018 and Biomass-Based Diesel Volume for 2019 at 17 (August 31, 2017). AFPM also notes that the referenced statutory provision in the state provisions, 42 U.S.C. § 7545 (o)(7)(A), expressly specifies that the Administrator may reduce "the national quantity of renewable fuel" required by the statute.

From: Beeman, Guy M. (MPC) [gmbeeman@marathonpetroleum.com]

Sent: 4/28/2017 5:02:47 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

CC: Max Hamel [mhamel@agenda-global.com]

Subject: Point of Obligation-Introduction

Good afternoon Mandy,

I would like to introduce you to Max Hamel via email. Max helps out MPC on some of our point of obligation work and is a just a overall great guy that you should know.

He has a client, Pro Petroleum, that operates pipeline-connected fuel storage and truck-loading terminals in Phoenix, Arizona, Las Vegas, Nevada and Texas. Pro Petroleum has a very unique view on what happens to the market when the obligated party is placed at the terminal as they were in CA when they started their LCFS (CA places obligation at terminal). They can speak directly to the financial impact to the small terminal operators and demonstrate the RIN price is already captured in the product price paid to current obligated parties (they are VLO jobbers). I think you will find their information very useful.

I just wanted to connect you and Max and will let him take it from here.

Have a great weekend.

Thanks,

Guy

Sent from my iPhone

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 4/27/2017 5:46:28 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: RE: Follow up

Attachments: 20170427 Assumptions and Crack Spread Calculation.pptx

Actually attaching the slides would help

From: Birsic, Michael J. (MPC)

Sent: Thursday, April 27, 2017 1:25 PM

To: Mandy Gunasekara (EPA)

Subject: Follow up

Mandy,

Attached is the assumptions and the crack spread calculation to go along with the slides we shared with you this morning. Please let us know if you want more clarification or additional information.

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004

Direct: 202-442-2459 Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com

Assumptions

Commodity \$/Gallon \$/Barrel				
Crude	1.15	48.48		
СВОВ	1.37	57.54		
ULSD	1.45	60.90		
HFO	0.96	40.25		
D6 RIN	0.98	40.95		
D4 RIN	1.15	48.30		
D5 RIN	1.14	47.88		
RVO	0.10	4.20		
Ethanol	1.67	70.14		
Biodiesel	3.70	155.40		

1 Barrel = 42 Gallons

Crack Spread Calculation

- "Crack Spread" is defined as the value of the refinery fuel products less the cost of the crude oil raw material; It serves as a benchmark proxy for the refinery gross margin
- The LLS 6321 Crack Spread assumes that 6 barrels of LLS crude oil will yield 3 barrels of gasoline (CBOB), 2 barrels of diesel (ULSD), and 1 barrel of heavy fuel oil (HFO)

		1.55	Crack Spread	
	Commodity	Barrels	\$/Barrel	\$
Crude Cost	LLS Crude	6	48.48	6 x 48.48 = 290.88
Product Value	СВОВ	3	57.54	3 x 57.54 = 172.62
	ULSD	2	60.90	2 x 60.90 = 121.80
	HFO	1	40.25	1 x 40.25 = 40.25
	Total	6	334.67 / 6 = 55.78	334.67
Crack Spread		6	55.78 - 48.48 = 7.30	334.67 - 290.88 = 43.79

From: Dominguez, Alexander [dominguez.alexander@epa.gov]

Sent: 4/12/2018 10:02:40 PM

To: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

CC: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Menefee, Jake E. (MPC)

[jakeemenefee@marathonpetroleum.com]

Subject: RE: Meeting Request

Hey Mike,

Happy to set something up.

Per our discussion, if you only need a thirty minute meeting Mandy is available:

Monday, April 16th – 2:30; 5:00 Tuesday, April 17th – 8:30

For an hour:

Wednesday, April 18th -12:00 - 3:00 Thursday, April 19th -10:00 - 1:00 Friday, April 20th - 1:00 - 2:00

If you think you could let me know by tomorrow morning at least a few openings you would like me to hold it would be much appreciated. I have a few more meetings to set up tomorrow and I just want to make sure not to double book. Feel free to give me a call if easier to discuss by phone.

Appreciate it, Alex

Alex Dominguez

Policy Analyst to the Principal Deputy Office of Air and Radiation U.S. Environmental Protection Agency

D: 202-564-3164 C: 202-578-5985

From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]

Sent: Thursday, April 12, 2018 4:20 PM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Cc: Dominguez, Alexander <dominguez.alexander@epa.gov>; Menefee, Jake E. (MPC)

<jakeemenefee@marathonpetroleum.com>

Subject: Meeting Request

Mandy,

I hope you are doing well. We wanted to see if you had some time next week for us to come in and discuss some technical aspects of the small refiner exemptions for the RFS. If you are free, please let us know at your earliest convenience some times that may work for your schedule.

Thank you in advanced for your consideration and we hope to speak with you soon.

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004 Direct: 202-442-2459

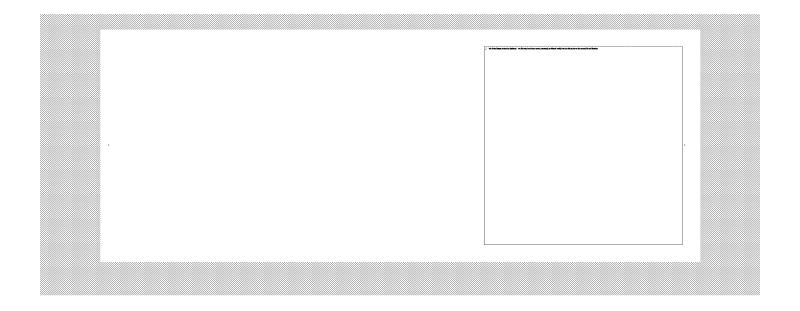
Cell: 202-213-2548 Fax: 202-442-2492

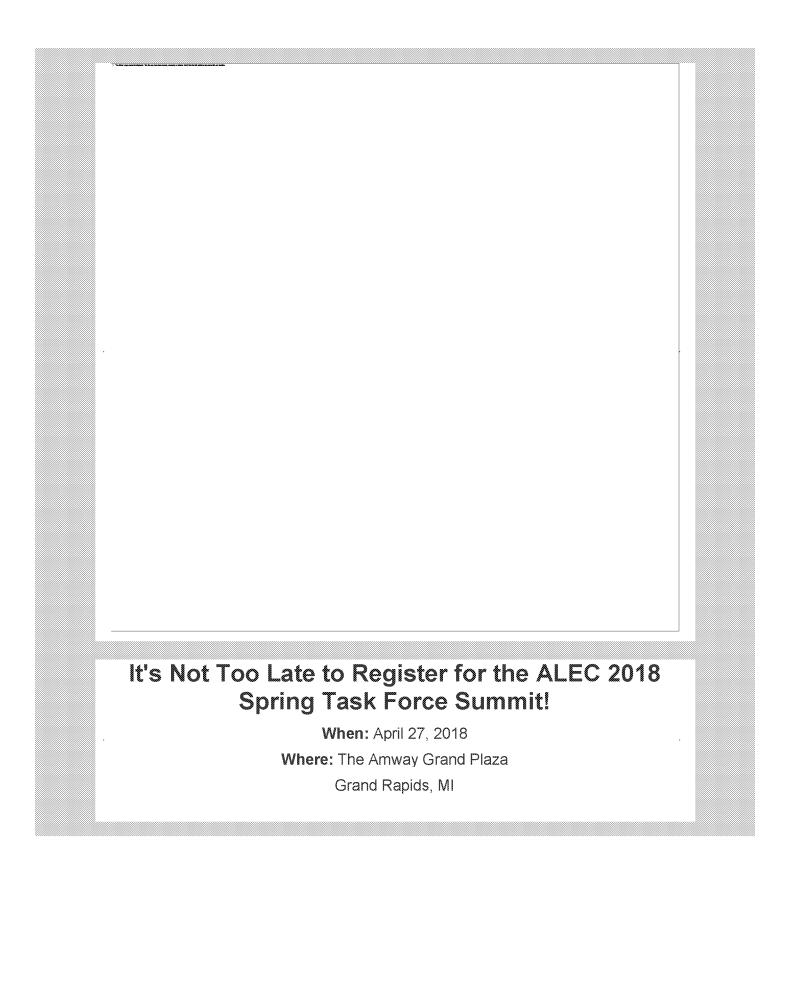
mjbirsic@marathonpetroleum.com

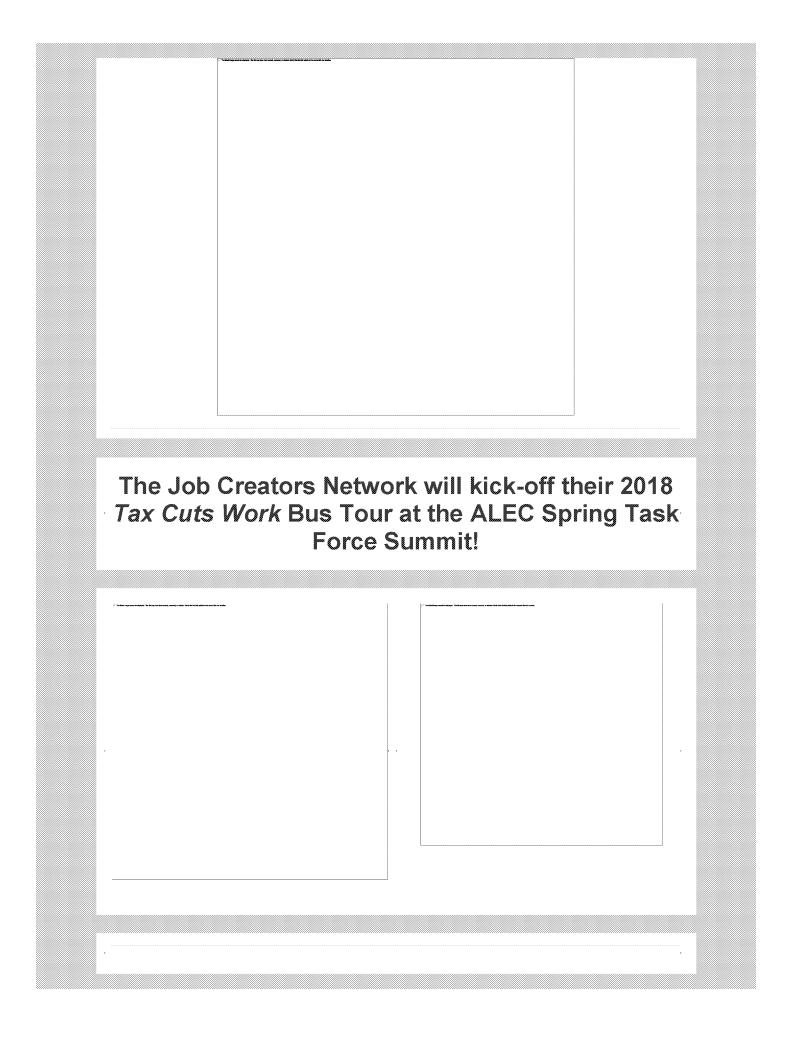
From: Courtney Cook [CCook@alec.org]

Sent: 4/12/2018 12:40:02 AM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: Be Sure to File Your Taxes and Join ALEC in Grand Rapids!







Internet Tax Workshop: Addressing Potential New Burdens on Interstate Commerce and Economic Growth

Some state policymakers are attempting to resolve their overspending problems by forcing non-resident online retailers located outside of their jurisdiction to ask as tax collection agents for their state. This misguided bid utterly violates the constitutional principles that spur innovation, entrepreneurship, and commerce! ALEC, guided by its principles, members and model policy, opposes this and similar actions. Find out more and provide your insights at the Internet Tax Workshop: Addressing Potential New Burdens on Interstate Commerce and Economic Growth on Friday, April 27, 2018 at 11:00 AM.

ALEC Task Force Information: See What's Being Discussed!

Civil Justice

Education and Workforce Development

Commerce, Insurance and Economic Development

C

Energy, Environment and Agriculture

Communications and Technology

Health and Human Services

Criminal Justice

Tax and Fiscal Policy

Full Conference Agenda

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Questions? Contact us at meetings@alectorg

Unsubscribe

This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202

Lauren Sheehan [LSheehan@afpm.org] From:

6/6/2017 2:11:12 AM Sent:

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Re: CEI Dinner

Ex. 6 Personal Privacy (PP)

I hope you have a great trip!! Hope to see you when

you get back and have a minute to breathe

Lauren Sheehan

Senior Manager Government Relations

American

Fuel & Petrochemical

Manufacturers

1667 K Street NW

Suite 700

Washington, DC 20006 202.457.0480 office 202,552,8487 direct

202.457.0486 fax LSheehan@afpm.org

From: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Sent: Monday, June 5, 2017 5:10:05 PM

To: Lauren Sheehan Subject: Re: CEI Dinner

Haha! Yes. Sorry for late notice. I'm in route now, so will miss the CEI fun. Hope you all have a GREAT time! Ex. 6 Personal Privacy (PP)

Ex. 6 Personal Privacy (PP)

Sent from my iPhone

On Jun 5, 2017, at 4:47 PM, Lauren Sheehan < <u>LSheehan@afpm.org</u>> wrote:

Just realized I put on the wrong email address for you,

Ex. 6 Personal Privacy (PP)

Ex. 6 Personal Privacy (PP)

Lauren Sheehan Senior Manager Government Relations

American

Fuel & Petrochemical

Manufacturers

1667 K Street NW

Suite 700

Washington, DC 20006 202.457.0480 office 202.552.8487 direct

202.457.0486 LSheehan@afpm.org

From: Gunasekara, Surya [mailto:Surya@mail.house.gov]

Sent: Monday, June 5, 2017 4:36 PM

To: Lauren Sheehan < LSheehan@afpm.org>

Cc: Mandy Gunasekara < Mandy Gunasekara@epw.senate.gov>; Barnard, Brian

<Brian.Barnard@mail.house.gov>; Robreno, Andrew <Andrew.Robreno@mail.house.gov>; Chris

Parinello - Valero (Chris.Parinello@valero.com) < Chris.Parinello@valero.com>; Limardo, Rick < Rick.Limardo@mail.house.gov>

Subject: Re: CEI Dinner

Yes, but Mandy is out. She'll be at the G7 in Italy

Ex. 6 Personal Privacy (PP)

Surya G. Gunasekara Chief of Staff Congressman Renacci (OH-16)

Sent from my iPhone

On Jun 5, 2017, at 4:12 PM, Lauren Sheehan < LSheehan@afpm.org> wrote:

Hi Everyone,

I just want to confirm that 1- you are all still planning on coming to the CEI dinner this Wed the 7th and 2- you should have received an email from them with more information (most of which I included in the calendar invite).

Mostly let me know if your plans have changed-look forward to seeing everyone!

Thanks! Lauren

Lauren Sheehan Senior Manager Government Relations

American
Fuel & Petrochemical
Manufacturers
1667 K Street NW
Suite 700
Washington, DC 20006
202.457.0480 office
202.552.8487 direct
202.457.0486 fax
LSheehan@afpm.org

From: Lauren Sheehan [LSheehan@afpm.org]

Sent: 8/23/2017 8:47:38 PM

To: Lauren Sheehan [LSheehan@afpm.org]

Subject: Moving On

Friends and colleagues,

As some of you may know, tomorrow is my last day at AFPM. I have accepted a position with Valero's Federal Government Affairs team where I will continue to work on tax, environmental and fuels issues. It has been a pleasure working with you all and I am glad to be staying within the industry in this next chapter. As of September 5th, I can be reached at Lauren.Sheehan@valero.com.

For any AFPM-related business, including if you know of any good candidates for AFPM's government relations team, please contact Geoff Moody at GMoody@afpm.org.

I hope everyone has a great last few weeks of summer/recess!

Best, Lauren

Lauren Sheehan Senior Manager Government Relations

American
Fuel & Petrochemical
Manufacturers
1667 K Street NW
Suite 700
Washington, DC 20006
202.457.0480 office
202.552.8487 direct
202.457.0486 fax
LSheehan@afpm.org

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 6/2/2017 12:33:23 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: RMP

Hey Mandy,

I wanted to circle back with you on RMP and to see if you could put me in touch with whoever is running point on that issue. If it is you (that would be great), we would love to come in and sit down with you on an idea on RMP.

Mike

----Original Message----From: Birsic, Michael J. (MPC) Sent: Friday, May 19, 2017 1:36 PM

To: Mandy Gunasekara

Subject: RMP

Hey Mandy,

Hope you are well. I saw Surya last night, it's been awhile so it was great to see him.

Do you know who is handling RMP for the Agency? We wanted to bring some of our folks in to visit in the next couple weeks and we have some ideas that maybe helpful to the agency in regards to RMP.

Thanks for pointing me in the right direction.

Mike

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 7/31/2017 2:32:17 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]

Subject: Ozone Presentation for tomorrow **Attachments**: 20170801 EPA Ozone Presentation.pptx

Mandy and Alex,

We are looking forward to speaking with you guys tomorrow. Here is the presentation we will be working from during our call. If you have any questions beforehand, please let us know.

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004 Direct: 202-442-2459

Cell: 202-213-2548 Fax: 202-442-2492

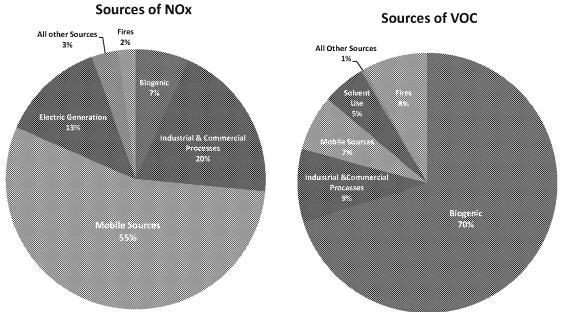
mjbirsic@marathonpetroleum.com

2015 Ozone NAAQS

- 70 ppb standard is not realistic and is at background in large areas of the country
- Existing 2015 record supports higher standard
- EPA should expeditiously review and repeal the 2015 ozone NAAQS based upon the record created to support the 2015 final rule.
 - EPA can determine 70 ppb standard is void ad initio
 - EPA could replace with higher standard 72 75 ppb
 - Quick review is necessary, must be done before:
 - 2008 75 ppb standard moderate nonattainment deadlines
 - 2015 70 ppb standard designations
 - If EPA decides not to repeal the 2015 standard then expeditiously revoke the 2008 standard

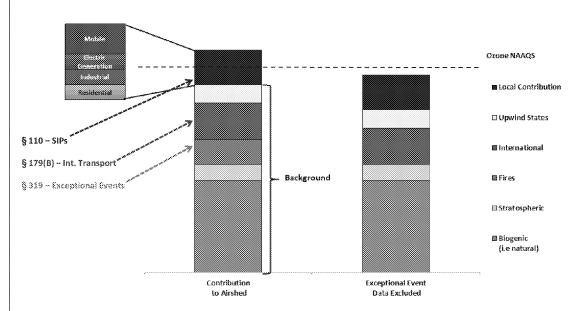
Ozone Precursor Emission Sources

National average, but unique to every location and changes daily!



Contributors to Ozone*

This is unique to every location and changes daily!



^{*}Representative airshed of high ozone day, for demonstration purposes only.

Adapted from Jaffe (March 2017).

NAAQS Implementation Improvements

· International Transport -

- Rule must reflect statutory intent "but for emissions emanating from outside of the United States"
- Areas are already extremely well-controlled but have influence from Mexico, Asia, Canada, etc. (e.g. HGB)
 - · International influence should be accounted for and subtracted
 - Need to research and define regional contributions

Exceptional Events

- Natural event (e.g. wildfires or haboob) or an event caused by human activity that is unlikely to recur (e.g. industrial accident).
 - · Process has been burdensome and costly which prevents states from submitting petitions
 - Streamlined approach necessary
 - Need avenue for regulated community to assist in flagging EE days
 - Only require very limited data for flagging
 - Full demonstrations should not be required until classification is affected (e.g. 4th highest day-3 year average)
 - E.g. 2014 = 75 ppb, 2015 = 77 ppb, 2016 = 76 would not need to do full demonstration of a 2014 or 2015 event until triggered nonattainment in 2016

SIP Control Strategies

- Many existing nonattainment areas already extremely well controlled (e.g. HGB)
- Impact of additional federal programs need to be considered in control plans (e.g. Tier III fuels, MACT, NSPS)
- Ozone formation science is progressing we need to target the right sources
 - · Traditional control strategies are costly and in many cases will not reduce high ozone days
 - · Some high ozone days caused by acute issues (e.g. emissions events & malfunctions)
 - Need to understand cause of high ozone days in each area before implementing a new control strategy

Biogenics	903179.7027	0.066676104
Industrial & Commercial Processes	2682277.773	0.198015778
Mobile Sources	7463540.367	0.550986468
Electric Generation	1759629.814	0.129902455
All other Sources	446622.1278	0.032971316
Fires	290528.2082	0.021447879

2	Percentage
---	------------

Biogenic	0.701259629
Industrial &Commercial Processes	0.091045555
Mobile Sources	0.069290326
Solvent Use	0.053295857
All Other Sources	0.004453772
Fires	0.08065486

From: Geoffrey Moody [GMoody@afpm.org]

Sent: 6/15/2018 2:16:26 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Catching up

Mandy, it's been awhile, I hope things are well. I was wondering if you had some time next week to grab coffee or something and catch up on a few issues?

Geoff Moody

Vice President Government Relations

American

Fuel & Petrochemical

Manufacturers

1800 M Street NW Suite 900 North

Washington, DC 20006 202.457.0480 office

202.844.5489 direct

202.280.0430 mobile

gmoody@afpm.org

Learn more about AFPM at afpm.org

From: Birsic, Michael J. [mjbirsic@marathonpetroleum.com]

Sent: 6/13/2018 4:23:18 PM

To: Rakosnik, Delaney [rakosnik.delaney@epa.gov]

CC: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Atkinson, Emily [Atkinson.Emily@epa.gov]; Lewis, Josh

[Lewis.Josh@epa.gov]

Subject: Re: Confirmed June 13th at 1pm: RE: [EXTERNAL] Re: RFS Meeting

Hi everyone, we are downstairs

On Jun 7, 2018, at 1:52 PM, Rakosnik, Delaney <<u>rakosnik.delaney@epa.gov</u>> wrote:

Dear Michael,

You are confirmed for a meeting on June 13th at 1:00pm with Bill Wehrum.

Directions and procedures to 1200 Pennsylvania Avenue NW:

Metro: If you come by Metro get off at the Federal Triangle metro stop. Exit the metro station and go up two sets of escalators to the surface level and turn right. You will see a short staircase and wheelchair ramp leading to a set of glass doors with the EPA logo - that is the William Jefferson Clinton Federal Building, North Entrance.

Taxi: Direct the taxi to drop you off on 12th Street NW, between Constitution and Pennsylvania Avenues, at the elevator for the Federal Triangle metro stop - this is almost exactly half way between the two avenues on 12th Street NW. Facing the building with the EPA logo and American flags, walk toward the building and take the glass door on your right hand side with the escalators going down to the metro on your left – that is the North Lobby of the William Jefferson Clinton building.

Security Procedures: A government issued photo id is required to enter the building and it is suggested you arrive 15 minutes early in order to be cleared and arrive at the meeting room on time. Upon entering the lobby, the meeting attendees will be asked to pass through security and provide a photo ID for entrance. If you are a foreign national entering on a non-US passport, please let us know in advance, as there is a separate clearance process.

Upon arrival, let the guards know that you were instructed to call 202-564-7404 for a security escort.

Feel free to contact me should you need any additional information. Many thanks,

Delaney Rakosnik Staff Assistant Immediate Office of the Assistant Administrator Office of Air and Radiation, USEPA Room 5406A, 1200 Pennsylvania Avenue NW Washington, DC 20460

Voice: 202-564-2229

Email: rakosnik.delaney@epa.gov

From: Birsic, Michael J. [mailto:mjbirsic@marathonpetroleum.com]

Sent: Thursday, June 7, 2018 12:51 PM

To: Rakosnik, Delaney < rakosnik.delaney@epa.gov>

Cc: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov>; Atkinson, Emily < Atkinson. Emily @epa.gov>;

Lewis, Josh < Lewis.Josh@epa.gov >

Subject: Re: [EXTERNAL] Re: RFS Meeting

Delaney,

That works great! Thank you for getting us on the calendar. We will have the following folks attending:

David Whikehart - Vice President of Environment, Safety and Corporate Affairs

Jake Menefee - Director, Federal Government Affairs

Guy Beeman - Manager, Federal Government Affairs

Michael Birsic - Manager, Federal Government Affairs

Please let us know if you need any additional information

On Jun 7, 2018, at 11:03 AM, Rakosnik, Delaney rakosnik.delaney@epa.gov wrote:

Dear Michael,

We can schedule this meeting on June 13th, 1:00 to 1:45pm. How does that work for your schedules?

Many thanks,

Delaney Rakosnik Staff Assistant Immediate Office of the Assistant Administrator Office of Air and Radiation, USEPA Room 5406A, 1200 Pennsylvania Avenue NW Washington, DC 20460

Voice: 202-564-2229

Email: rakosnik.delaney@epa.gov

From: Birsic, Michael J. [mailto:mjbirsic@marathonpetroleum.com]

Sent: Wednesday, June 6, 2018 6:05 PM

To: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov >

Cc: Atkinson, Emily < Atkinson. Emily@epa.gov>; Rakosnik, Delaney

<rakosnik.delaney@epa.gov>

Subject: Re: [EXTERNAL] Re: RFS Meeting

Excellent! Thank you, everyone.

On Jun 6, 2018, at 5:57 PM, Gunasekara, Mandy Gunasekara.Mandy@epa.gov wrote:

Mike- great to hear from you. I'm looping in the scheduling team to see if we can make it work. We will follow up. Best,
Mandy

Sent from my iPhone

On Jun 6, 2018, at 5:05 PM, Birsic, Michael J. mjbirsic@marathonpetroleum.com wrote:

Mandy,

I hope you are doing well. I wanted to see if you and Mr. Wehrum had an opportunity on Wednesday, June 13 to meet with Dave Whikehart and the Marathon government affairs office on the RFS. We wanted to discuss with you RINs, the RVOs and the potential impact of redistributing RINs from the small refinery exemptions. I just learned that Dave is available almost all day Wednesday, so please let us know if there would be a time that day that works for you and Mr. Wehrum.

Thank you in advanced for your consideration and we hope to speak with you both next week.

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004 Direct: 202-442-2459

Cell: 202-213-2548 Fax: 202-442-2492

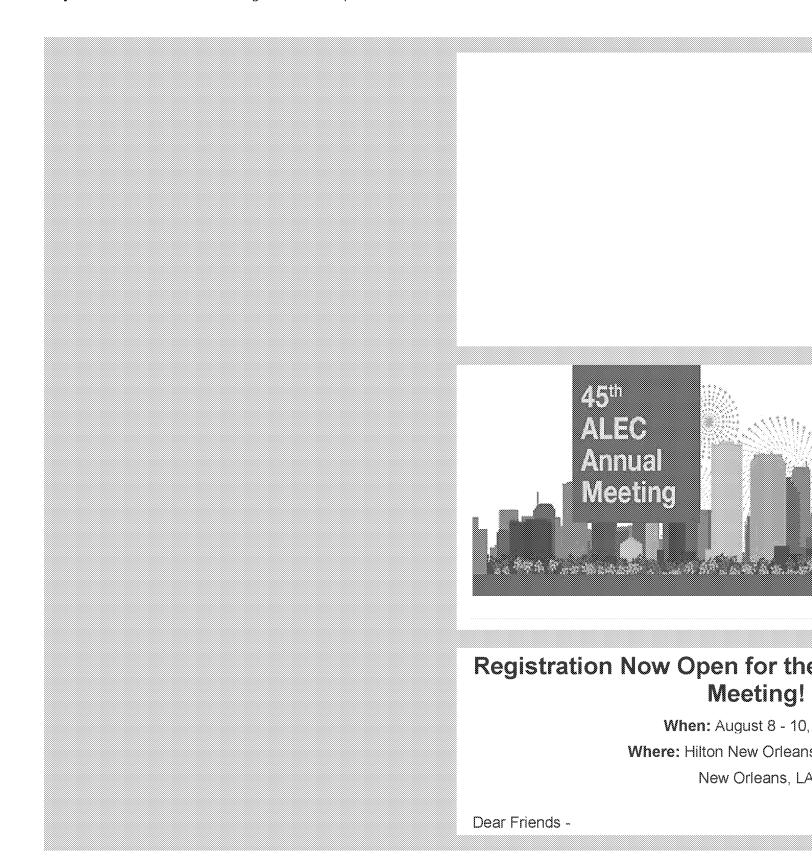
mjbirsic@marathonpetroleum.com

From: Lisa B. Nelson [lisanelson@alec.org]

Sent: 5/10/2018 2:36:48 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Join ALEC in NOLA - Registration Now Open!



Registration for the 2018 ALEC Annual Meeting in officially open. As ALEC continues to celebrate its encourage you to join us for 3-days of policy packed networking with old and new friends. We saw so musummer and look forward to seeing you all again it from the below reviews, this is a meeting you do nannounce keynote speakers in the coming weeks.

Sincerely,



- "I appreciated the selection of speakers, t professionalism of the
- "As my first ALEC experience, I thought that everything was done to perfection. It able to network with other staffers from ac professional
- "It was a great conference with lessons le topics and strong ne



Full Conference Ag



Make y the Hilt

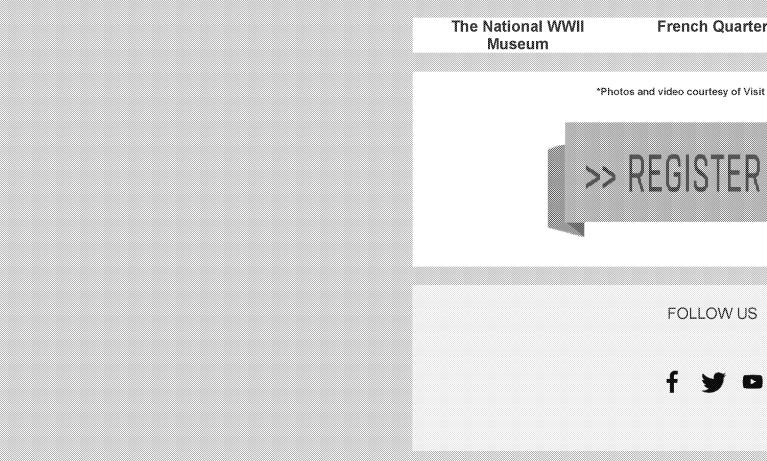
Book no AL



Come experience all New Or







Unsubscribe

This message was sent to gunasekara.mandy@epa.gov from lisanelson@alec.org

Lisa B. Nelson ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202

GContact

From: Higley, Stephen D. (MPC) [sdhigley@marathonpetroleum.com]

Sent: 6/29/2017 10:59:08 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: ALEC conference

Mandy – here are the details:

• The 2017 ALEC Annual Meeting is July 18-21 in Denver.

- The speaking opportunity would be at the Energy subcommittee, the morning of Wednesday, July 19.
- Attendance for the event will be probably about 60-70 Energy, Environment and Agriculture (EEA) Task Force
 members mix of state legislators and private sector folks, all obviously with an interest in
 energy/environmental policy.
- The legislators in particular would definitely be glad for the opportunity to hear about the Administrator's priorities and the work you all have been doing.
- You'd have up to about 30 minutes to present, including (if you desire) time for Q&A (it will be closed to press).

Thanks for considering, and please let me know if you need more info or have questions.

Steve

From: David Friedman [DFriedman@afpm.org]

Sent: 3/8/2018 8:18:14 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Thank You and a Question

Mandy-

Thank you again for speaking to our Environmental Committee on Tuesday. You provided a clear explanation of OAR's path forward and you could tell by the questions that our folks were very engaged! I wanted to follow up on another matter- can you tell me when you expect the proposed Refinery Sector Technical Corrections Rule will be signed? Penny Lassiter mentioned to me in mid-February that it had been sent up to OAR and the Policy Office for review and that OMB was waiving a review. Since we have some upcoming compliance deadlines in August, we are hoping that this can be completed as soon as possible to provide better regulatory certainty. Thanks again for your presentation and thanks in advance for responding to my question.

David N. Friedman Vice President Regulatory Affairs

American
Fuel & Petrochemical
Manufacturers
1667 K Street NW
Suite 700
Washington, DC 20006
202.457.0480 office
202.602 6604 direct
202.457.0486 fax

dfriedman@afpm.org

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From: Amy Kjose Anderson [aanderson@alec.org]

Sent: 7/19/2017 2:56:31 AM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: RE: ALEC Annual Meeting logistics

Glad you made it in safely. Look forward to seeing you in the morning!

Amy Kjose Anderson
Civil Justice Task Force Director and Oklahoma Membership Contact
American Legislative Exchange Council
(202) 870-1110
alec.org/CivilJustice

From: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Sent: Tuesday, July 18, 2017 7:31 PM

To: Amy Kjose Anderson

Subject: Re: ALEC Annual Meeting logistics

Amy,

Thank you for the follow up and information. I'm in a cab headed to the hotel. I look forward to meeting you in person in the morning.

Best, Mandy

Sent from my iPhone

On Jul 18, 2017, at 7:34 AM, Amy Kjose Anderson <aanderson@alec.org> wrote:

Ms. Gunasekara,

We are looking forward to having you speak at the ALEC conference this week. Kenny Stein is no longer with ALEC as of last Friday, so I am stepping in to run our Energy, Environment and Agriculture meetings at the ALEC Annual Meeting this week. I have included my contact information below. Don't hesitate to reach out if you need anything. As a reminder, we will be in room Centenniel A on Level 3 of the host hotel, the Hyatt Regency Denver, at 8am this Wednesday, July 19. We're looking forward to having you!

All my best, Amy Anderson Cell: 202-870-1110

Email: aanderson@alec.org

Amy Kjose Anderson Director, Civil Justice American Legislative Exchange Council (202) 870-1110

From: Kenneth Stein [mailto:kstein@alec.org]
Sent: Thursday, July 13, 2017 12:03 PM

To: Kenneth Stein

Subject: [EXTERNAL] ALEC Annual Meeting logistics

Thank you for agreeing to join us as a speaker for our Annual Meeting on Wednesday July 19th. This email is to be sure that you have my contact information, all listed below. Please do not hesitate to call my cell at 202-997-4858 should you encounter any logistical problems on your way to, or during, the event.

As a reminder, the meeting will be taking place at the Hyatt Regency Denver located at <u>650 15th Street Denver</u>, <u>CO 80202</u>. The Energy Environment and Agriculture Task Force will be meeting in Centennial Ballroom A located on the third floor from 8:00-10:20AM. When you arrive, please check in at Registration located in the Mineral Foyer, also on the third floor, where you will receive a speaker's badge which will allow you into the meeting area.

Each of your speaking times have been communicated to you individually, however if you are unsure about your speaking time, please reply back so that I can confirm with you.

There will be a laptop and projector available should you have any slides that you wish to use in your presentation. You may bring your slides on your own flash drive, or if you would prefer I set them up, please e-mail your slides to me if you have not already done so.

Please let me know if you have any questions, and looking forward to seeing each of you in Denver.

Kenny Stein Director, Energy, Environment and Agriculture Task Force Office: 571-482-5008 Cell: 202-997-4858 kstein@alec.org

2900 Crystal Drive, Suite 600 Arlington, VA 22202

<image001.png>

Upcoming Meetings:

2017 Annual Meeting – July 19-21, 2017 – Denver, Colorado 2017 States and Nation Policy Summit – December 6-8, 2017 – Nashville, Tennessee 2018 Spring Task Force Summit – April 27, 2018 – Grand Rapids, Michigan

The American Legislative Exchange Council is a 501(c)3 nonprofit organization and is the largest nonpartisan, voluntary membership organization of state legislators in the United States dedicated to the principles of limited government, free markets and federalism. The Council is governed by state legislators who comprise the National Board of Legislators and is advised by the Private Enterprise Advisory Council, a group of private, foundation and think tenk members.

Website | Facebook | Twitter | Blog

From: Geoffrey Moody [GMoody@afpm.org]

1/10/2018 4:10:05 PM Sent:

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: RE: Call

Just call my cell when you free up Ex.6 Personal Privacy (PP) I'm good any time up until 2

----Original Message----

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov] Sent: Wednesday, January 10, 2018 11:09 AM To: Geoffrey Moody <GMoody@afpm.org> Subject: Call

I should be free to call in 10

Sent from my iPhone

From: Geoffrey Moody [GMoody@afpm.org]

Sent: 1/10/2018 1:26:21 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Re: Move Call

Hey Mandy, of course. Talk to you then

Sent from my iPhone

On Jan 10, 2018, at 8:23 AM, Gunasekara, Mandy < Gunasekara. Mandy@epa.gov> wrote:

Hey Geoff,

Can we move today's call to 11 am? I now have a briefing at 930.

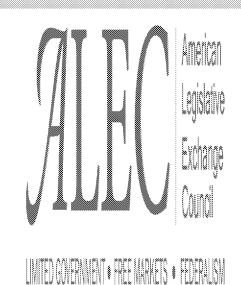
Mandy M. Gunasekara

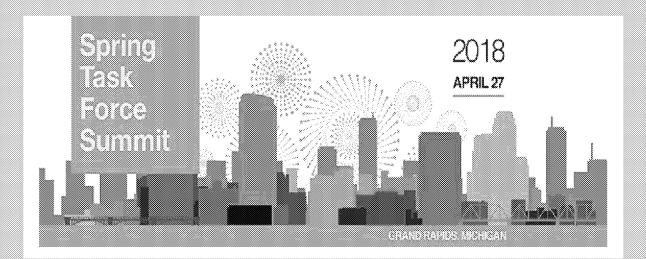
Principal Deputy Assistant Administrator Office of Air and Radiation US Environmental Protection Agency From: Courtney Cook [CCook@alec.org]

Sent: 3/28/2018 3:51:58 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: ALEC - Is Your State Making the Grade?





>> REGISTER NOW

One Week Left to Save!

Register and Book Your Hotel Room Today!

Early Bird and Housing Ends on April 6

When: April 27, 2018

Where: The Amway Grand Plaza

Grand Rapids, MI

Early Bird Deadline: April 6, 2018



Make your reservation today at the Amway Grand Plaza

Book now through **April 6, 2018*** at the ALEC rate of **\$179** per night.

*based on availability

Book Now

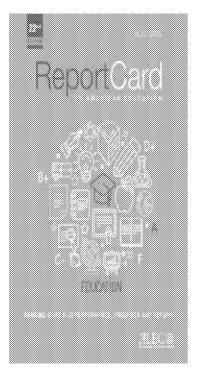
Policy Spotlight: Education and Workforce Development

Register today and join the Task Force on Education and Workforce Development as it digs behind the headlines and question experts about common sense changes to school security and discipline policies that might prevent the next Parkland tragedy.

Join us in Grand Rapids, MI at the Spring Task Force Summit as the task force continues discussions on issues that are effecting your state!



Full Conference Agenda

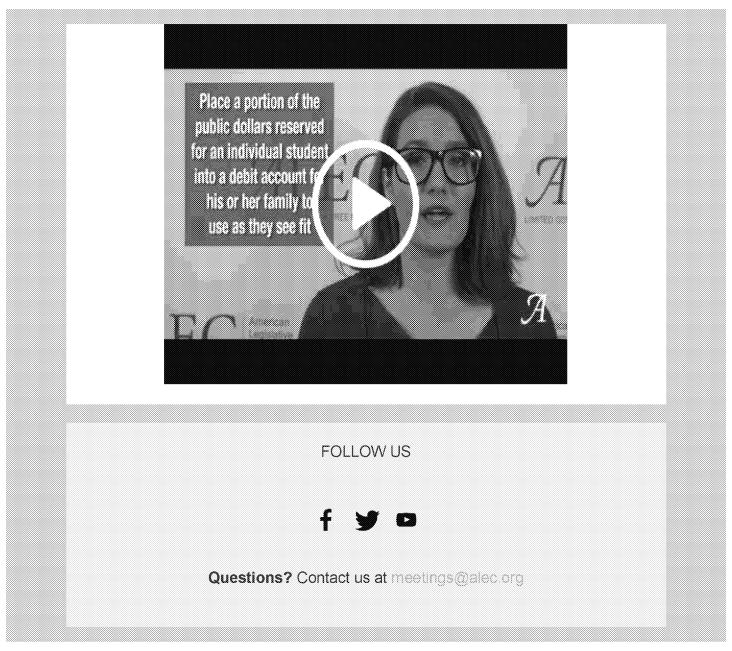


Report Card on American Education: 22nd Edition

The status quo is not working. Whether by international comparisons, state and national proficiency measures, civic literacy rates, or career preparedness, American students are falling behind. The 22nd edition of the Report Card on American Education ranks states on their K-12 education and policy performance. Find your state ranking below.

Your State Report Card

What are Educational Savings Accounts (ESA)?



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This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook
ALEC
2900 Crystal Drive, 6th Floor
Arlington, VA 22202



Mason Hunt [mhunt@alec.org] From:

7/18/2017 7:55:31 PM Sent:

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov] Subject: Registration Confirmed - 44th ALEC Annual Meeting



Dear Mandy:

Your registration has been confirmed. Thank you for registering to attend the 44th ALEC Annual Meeting. Please save this email for future reference.

Still need to make your hotel reservation? Make your reservation now.

Check our meetings website often for updates on agenda news!

Event: 44th ALEC Annual Meeting Attending: Mandy Gunasekara

Number in Party: 1 Time: 8:00 AM

Date: Wednesday, July 19, 2017 Location: Hyatt Regency Denver

Address: 650 15th St, Denver, Colorado 80202, USA

Confirmation Number: PRNKNB7YCFS

Registration Type: Speaker

Current Registration:

Registration Information:		
Registration Items		
Mandy Gunasekara	Single-Day Pass (Speaker)	
Additional Intermation		
Mandy Gunasekara	Is this your first time attending an ALEC event?	
	Yes	
	Would you like to receive SMS Push Notifications?	
	No	

Name of your ALEC staff contact

Amy Anderson

Please select the date you will be speaking.

19-Jul-2017

Please select which Task Force you will be speaking.

Energy, Environment and Agriculture

What will be the topic of your speech? Please be specific.

EPA

Will you have any special audio or video needs during your presentation?

No



Click here to view the event summary

We look forward to seeing you there! Sincerely,

Mason Hunt, MPA Events Coordinator mhunt@alec.org



If you no longer want to receive emails from Mason Hunt, please Opt-Out



From: Chrissy Harbin [CHarbin@afphq.org]

Sent: 10/9/2017 7:54:04 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: FW: AFP Praises Clean Power Plan Repeal

Hi Mandy,

In advance of tomorrow's announcement, our official statement is forwarded below and online here, FYI -

- https://americansforprosperity.org/afp-praises-clean-power-plan-repeal/

Chrissy Harbin | Vice President of External Affairs | Americans for Prosperity

M: (202) 560-1691 | E: charbin@afphq.org | T: @ChrissyHarbin

From: AFP Media <Media@afphq.org>
Date: Monday, October 9, 2017 at 1:21 PM
To: Chrissy Harbin <CHarbin@afphq.org>
Subject: AFP Praises Clean Power Plan Repeal

This is a major promise kept by the Trump administration.



NEWS RELEASE

FOR IMMEDIATE RELEASE: October 9, 2017

CONTACT: Chris Neefus, CNeefus@afphq.org

AFP Praises Clean Power Plan Repeal

Grassroots organization has opposed CPP for years

Arlington, Va. – Americans for Prosperity commended EPA Administrator Scott Pruitt today following his announcement that he will sign a proposed rule to repeal the Clean Power Plan (CPP) Tuesday. The group has long fought to protect Americans' access to affordable, reliable energy, opposing harmful regulations like the CPP that force dramatically higher costs on American households.

Under this job-killing Obama-era energy rule, states would be pushed into draconian emissions cuts, forced to switch to costlier forms of energy which could ultimately cost consumers as much as \$33 billion. AFP has consistently opposed harmful regulations like the CPP which would drive up energy costs for hard-working families, crush small businesses and expand federal powers with virtually no environmental benefit.

Americans for Prosperity had previously invested in <u>grassroots efforts</u> to oppose the Clean Power Plan and supported legal efforts from <u>state attorneys general</u> to halt its implementation. The group also recently <u>issued a statement</u> of support for Scott Pruitt's nomination to the EPA after he had been a leader in opposing the policy.

AFP Vice President of External Affairs Chrissy Harbin had the following to say:

"This is a welcome departure from the Washington-first, Americans-last approach that characterized energy and environmental policy under the previous administration. The Clean Power Plan (CPP) was an overreach of executive power; President Obama's attempt to implement an agenda so radical that he could not get it passed through Congress when his party controlled both chambers. It's great to see President Trump and EPA Administrator Pruitt rein in this sweeping mandate that forces states to slash their carbon emissions and switch to costlier forms of energy.

We are encouraged to see such decisive action by the Trump administration to offer relief from this legally dubious, drastic rule that posed such a significant threat to electricity prices and economic growth. This is a major promise kept by the Trump administration. Repealing the Clean Power Plan will restore these energy decisions to duly elected state officials, and Americans who need reliable energy to run their households and businesses. We look forward to continuing to work with policymakers in seeking policies that promote economic growth and protect Americans' access to affordable and reliable energy solutions."

The grassroots group has made unwinding overregulation a centerpiece of their <u>Reform America 2017</u> agenda, a set of legislative priorities that the group will advocate for this year.

For comprehensive information about AFP's steps to get Americans relief from over-burdensome regulations in the energy sector and beyond, or for an interview, contact Chris Neefus at CNeefus@afphq.org.

View online

BACKGROUND

AFP Has Led the Charge Against EPA Overreach For Years

- 2017: <u>The Media are Missing Trump's Much-Needed Regulatory Relief</u>, by Christine Harbin (Washington Examiner)
- 2017: AFP Executive Order on Energy Regulations is Right Direction (Release)
- 2017: Regulatory Reform Gets Spotlight in Washington, by Christine Harbin (Morning Consult)

2017: LETTER: AFP Supports Full, Fair Consideration of Scott Pruitt for EPA Administrator

2016: <u>Trump Administration Will Bring Huge Reform to Energy and Environment</u>, by Christine Harbin (Morning Consult)

2016: AFP Joins Coalition Asking Lawmakers To Overturn Ozone Regulations That Would Place "A Tremendous Burden On Communities Across America." "A coalition of 60 conservative groups is asking lawmakers to overturn the Obama administration's new ozone pollution rule and change the law under which it was written. 'The ozone regulation places a tremendous burden on communities across America,' the groups wrote to the heads of the House and Senate committees with jurisdiction over the EPA. ... The coalition includes some big names such as Americans for Prosperity and FreedomWorks, along with state and local groups and others with smaller footprints." (Timothy Cama, "Conservative Groups Target Ozone Law In Push For Rule's Rollback," The Hill, 5/9/16)

- 2016: AFP Praises SCOTUS Decision to Halt President's Clean Power Plan
- 2015: AFP Sends Press Release In Support Of The EPA Overregulation Of Rural Americans Act.
- 2015: AFP Sends Press Release Urging States To Push Back against EPA's "Clean Power" Overreach.
- 2014: AFP Sends Letter To State Legislatures Urging Them To Resist EPA's Clean Power Plan. "A coalition of conservative groups is pressing states to "fiercely resist" the Environmental Protection Agency's carbon pollution rule for existing power plants. The broad array of organizations sent a letter to state legislators, attorneys general and governors, calling on them to resist the administration's proposal at every turn and to refuse to help the EPA along its process. ... 'We urge you to fiercely resist any attempt to appease the EPA's demands. EPA's so-called Clean Power Plan (CPP) is illegitimate, an affront to both federalism and the separation of powers,' the letter states. The letter signed by Heritage Action, and the -backed Americans for Prosperity and American Commitment doesn't mince words, arguing the EPA can't control 'its appetite for power' and that the proposal can't be implemented in any 'feasible or responsible' way." (Laura Barron-Lopez, "Conservatives Urge States To 'Fiercely Resist' EPA's Climate Rule," The Hill, 12/5/14)
- 2014: New Obama EPA Water Rules Set to Drown Property Rights, Economic Growth
- 2014: Grassroots to Congress: Stop the EPA Power Grab!
- 2014: AFP Sends Press Release Denouncing EPA's Carbon Regulation Rules That Would "Cost Billions Of Dollars And Hundreds Of Thousands of Jobs."

For further information or an interview, reach Chris Neefus at CNeefus@afphq.org or (703) 517-4504.

View online

Americans for Prosperity (AFP) exists to recruit, educate, and mobilize citizens in support of the policies and goals of a free society at the local, state, and federal level, helping every American live their dream — especially the least fortunate. AFP has more than 3.2 million activists across the nation, a local infrastructure that includes 36 state chapters, and has received financial support from more than 100,000 Americans in all 50 states. For more information, visit www.AmericansForProsperity.org

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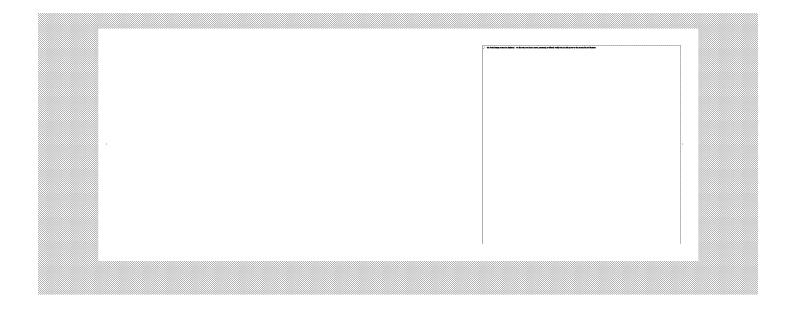
If you would rather not receive future communications from Americans for Prosperity, let us know by clicking here. Americans for Prosperity, 1310 N. Courthouse Rd., Arlington, VA 22201 United States

From: Courtney Cook [CCook@alec.org]

Sent: 3/7/2018 3:40:34 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Discussing Internet Tax at STFS!



Internet Tax Workshop: Addressing Potential New Burdens on Interstate Commerce and Economic Growth	
Some state policymakers are attempting to resolve their overspending problems by forcing non-resident online retailers located outside of their jurisdiction to ask as tax collection agents for their state. This misguided bid utterly violates the constitutional principles that spur innovation, entrepreneurship, and commerce! ALEC, guided by its principles, members and model policy, opposes this and similar actions. Find out more and provide your insights at the Internet Tax Workshop: Addressing Potential New Burdens on Interstate Commerce and Economic Growth on Friday, April 27, 2018 at 11:00 AM.	

Join us in Grand Rapids, MI at the Spring Task Force Summit as the task force continues discussions on issues that are effecting your state!

Remember, March 13, just a short week away, is the deadline to submit any proposed model policy, resolution or statement of principles to be considered at the Spring Task Force Summit.



ALEC Legislative Members Take Advantage of ALEC CARE Training

Want to know what some ALEC Legislative members consider one of the most valuable benefits of membership? Come see a constituent relationship management system that will transform the way you interact with your constituents. Better yet, it's free as a member benefit.

ALEC will host demonstrations Thursday, April 26 and Friday, April 27 at the Spring Task Force Summit.

RSVP to Ashley Varner

Full Conference Agenda

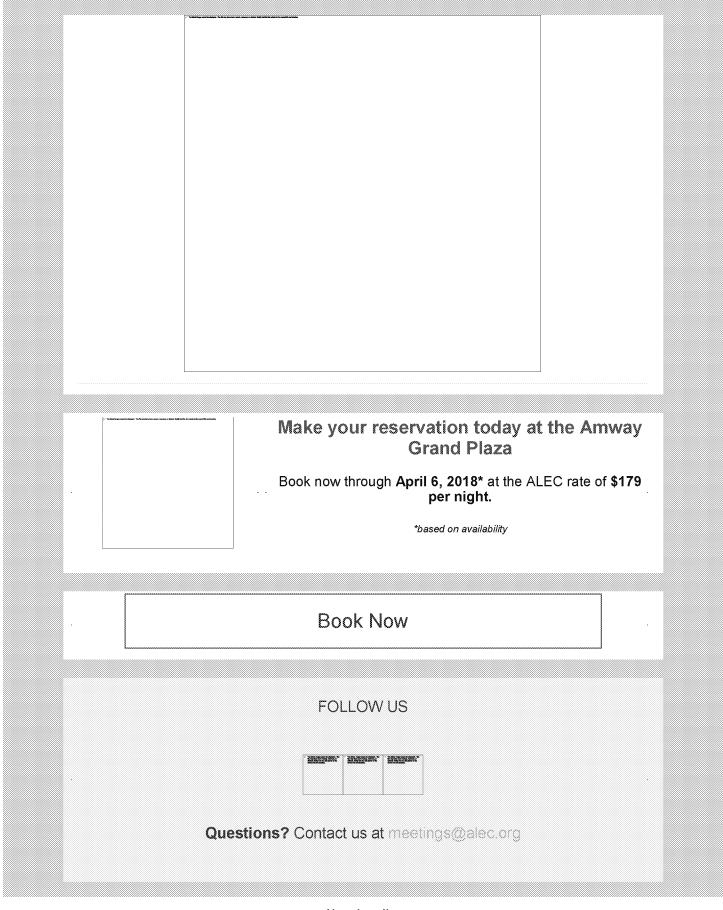
Have you registered for the ALEC 2018 Spring Task Force Summit?

When: April 27, 2018

Where: The Amway Grand Plaza

Grand Rapids, MI

Early Bird Deadline: April 6, 2018



Unsubscribe

This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202



```
From:
               Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]
               4/18/2017 9:59:22 PM
Sent:
To:
               Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
CC:
               Washington, Valerie [Washington.Valerie@epa.gov]
Subject:
               Re: [EXTERNAL] RE: Meeting Request
Thanks Mandy! Appreciate your help. Valerie, Tuesday and Thursday are best for Dave's schedule next
week.
        Thanks!
Mike
> On Apr 18, 2017, at 11:24 AM, Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> wrote:
> Mike - thank you for the note. I've cc'd Valerie Washington who can help arrange the logistics for a
meeting the last week of April.
> Best
> Mandy
  ----Original Message----
> From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]
> Sent: Monday, April 17, 2017 5:00 PM
  To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
> Subject: Re: Meeting Request
> Hey Mandy,
> Hope you had a good weekend. Just wanted to follow up on our potential meeting next week.
> Thanks,
> Mike
>> On Apr 11, 2017, at 7:49 AM, Birsic, Michael J. (MPC) <mjbirsic@marathonpetroleum.com> wrote:
>>
>> Mandv.
>>
>> I hope you are doing well. I would like to request a meeting with you the week of April 24. Dave
Whikehart, our Vice President of Environment, Safety and Corporate Affairs will be in town for meetings
and we would like to specifically discuss with you the point of obligation with the RFS. As you are aware, we are one of the refiners who opposes such a move and I think we have a lot of good data and the
right person in town to make a compelling case for leaving the point of obligation in place with the
refiners and importers.
>> Additionally, I wanted to share some data with you that will help supplement our future conversations. Attached you will find a presentation with a variety of different data points. The first part of this
presentation goes into who exactly the RVOs were broken down for 2017 and even gets into specific details on actual demand for products like EO, E15, and E85. Along with the RVOs, there are some slides that
show how RINs work and how they flow through the system. We originally pulled these earlier in the
month, but if it helpful, I can have Dave pull any day of the year and he can show you the math always works out the same. And finally, we just have some high level points on the point of obligation, as well
as our letter to the EPA.
>>
>> I hope this information is helpful and that we are able to find a time that last week of April to get
together. In the meantime, please let me know if you have any questions or would like any more
information prior to our meeting.
>>
>> Mike
>>
>> Michael Birsic
>> Marathon Petroleum Corporation
>> Manager, Federal Government Affairs
>> 1201 F Street, NW, Suite 625
>> Washington, DC 20004
>> Direct: 202-442-2459
>> Cell: 202-213-2548
>> Fax: 202-442-2492
>> mjbirsic@marathonpetroleum.com<mailto:mjbirsic@marathonpetroleum.com>
>>
```

>> <20160909 MPC Letter to EPA on Point of Obligation.pdf> >> <20170411 EPA RIN Flow-Through Slides and RVO Data.pptx>

From: Birsic, Michael J. [mjbirsic@marathonpetroleum.com]

Sent: 6/8/2018 3:38:06 PM

To: Rakosnik, Delaney [rakosnik.delaney@epa.gov]

CC: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Atkinson, Emily [Atkinson.Emily@epa.gov]; Lewis, Josh

[Lewis.Josh@epa.gov]

Subject: Re: [EXTERNAL] Re: RFS Meeting

Hi Delaney,

Yes, 12:30 works. Thanks!

Mike

On Jun 8, 2018, at 11:37 AM, Rakosnik, Delaney <rakosnik.delaney@epa.gov> wrote:

Hi Michael,

We had a slight change in scheduling on our end; would you and your team be available at 12:30, as opposed to 1pm on the 13th?

Many thanks, Delaney

From: Birsic, Michael J. [mailto:mjbirsic@marathonpetroleum.com]

Sent: Thursday, June 7, 2018 12:51 PM

To: Rakosnik, Delaney < rakosnik.delaney@epa.gov >

Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>;

Lewis, Josh < Lewis. Josh@epa.gov>

Subject: Re: [EXTERNAL] Re: RFS Meeting

Delaney,

That works great! Thank you for getting us on the calendar. We will have the following folks attending:

David Whikehart - Vice President of Environment, Safety and Corporate Affairs

Jake Menefee - Director, Federal Government Affairs

Guy Beeman - Manager, Federal Government Affairs

Michael Birsic - Manager, Federal Government Affairs

Please let us know if you need any additional information

On Jun 7, 2018, at 11:03 AM, Rakosnik, Delaney <rakosnik.delaney@epa.gov> wrote:

Dear Michael,

We can schedule this meeting on June 13th, 1:00 to 1:45pm. How does that work for your schedules?

Many thanks,

Delaney Rakosnik Staff Assistant Immediate Office of the Assistant Administrator Office of Air and Radiation, USEPA Room 5406A, 1200 Pennsylvania Avenue NW Washington, DC 20460

Voice: 202-564-2229

Email: rakosnik.delaney@epa.gov

From: Birsic, Michael J. [mailto:mjbirsic@marathonpetroleum.com]

Sent: Wednesday, June 6, 2018 6:05 PM

To: Gunasekara, Mandy < Gunasekara, Mandy@epa.gov>

Cc: Atkinson, Emily < Atkinson. Emily@epa.gov>; Rakosnik, Delaney

<rakosnik.delaney@epa.gov>

Subject: Re: [EXTERNAL] Re: RFS Meeting

Excellent! Thank you, everyone.

On Jun 6, 2018, at 5:57 PM, Gunasekara, Mandy < Gunasekara. Mandy @epa.gov > wrote:

Mike- great to hear from you. I'm looping in the scheduling team to see if we can make it work. We will follow up.

Best, Mandy

Sent from my iPhone

On Jun 6, 2018, at 5:05 PM, Birsic, Michael J. michael J. michael J.

Mandy,

I hope you are doing well. I wanted to see if you and Mr. Wehrum had an opportunity on Wednesday, June 13 to meet with Dave Whikehart and the Marathon government affairs office on the RFS. We wanted to discuss with you RINs, the RVOs and the potential impact of redistributing RINs from the small refinery exemptions. I just learned that Dave is available almost all day Wednesday, so please let us know if there would be a time that day that works for you and Mr. Wehrum.

Thank you in advanced for your consideration and we hope to speak with you both next week.

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004 Direct: 202-442-2459

Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com

From: Gunasekara, Surya [Surya@mail.house.gov]

Sent: 5/23/2017 12:08:39 PM

To: 'Lauren Sheehan' [LSheehan@afpm.org]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: RE: CEI dinner

We'll be there.

From: Lauren Sheehan [mailto:LSheehan@afpm.org]

Sent: Monday, May 22, 2017 6:13 PM

To: Gunasekara.Mandy@epa.gov; Gunasekara, Surya

Subject: CEI dinner

https://cei.org/ceidinner

June 7th @ Marriott marquis.

You guys will have a seat at the table and access to the "presidential reception" whatever the eff that it is.

Lauren Sheehan

Senior Manager Government Relations

American
Fuel & Petrochemical
Manufacturers
1667 K Street NV
Suite 700
Washington, DC 20006
202.457.0480 office
202.552.8487 direct
202.457.0486 fax
LSheehan@afpm.org

Message

From: Geoffrey Moody [GMoody@afpm.org]

Sent: 5/16/2017 10:03:01 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: AFPM meeting request

Mandy, if you're amenable I'd like to bring in our new SVP of Federal Affairs, Derrick Morgan, to meet you and anyone else from the team you think appropriate. Derrick was most recently Sen. Sasse's CoS so you may know him from your time in the Senate. Do you have some availability in early June for us to come over and make introductions?

Thanks,

Geoff Moody

Vice President Government Relations

American

Fuel & Petrochemical

Manufacturers

1667 K Street NW

Suite 700

Washington, DC 20006

202.457.0480 office

202.552.8489 direct

202.457.0486 fax

gmoody@afpm.org

Learn more about AFPM at afpm.org

Message

Geoffrey Moody [GMoody@afpm.org] From:

5/16/2017 9:30:20 PM Sent:

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: RE: Time to talk?

Absolutely—I'll be at an event but can step out. My cell is Ex. 6 Personal Privacy (PP)

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Tuesday, May 16, 2017 5:29 PM To: Geoffrey Moody < GMoody@afpm.org>

Subject: RE: Time to talk?

Not right now – headed to meeting that will last to 7. Can I call you after 7?

From: Geoffrey Moody [mailto:GMoody@afpm.org]

Sent: Tuesday, May 16, 2017 5:23 PM

To: Gunasekara, Mandy < Gunasekara, Mandy@epa.gov>

Subject: Time to talk?

Mandy, do you have a few minutes to jump on a call sometime in the next hour?

Geoff Moody

Vice President Government Relations

American

Fuel & Petrochemical Manufacturers

1667 K Street NW

Suite 700

Washington, DC 20006

202.457.0480 office

202.552.8489 direct fax

202.457.0486

gmoody@afpm.org

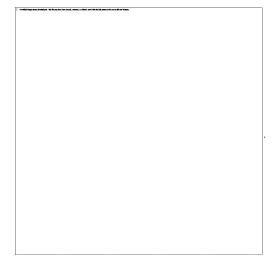
Learn more about AFPM at afpm.org

From: Courtney Cook [CCook@alec.org]

Sent: 11/22/2017 3:10:15 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

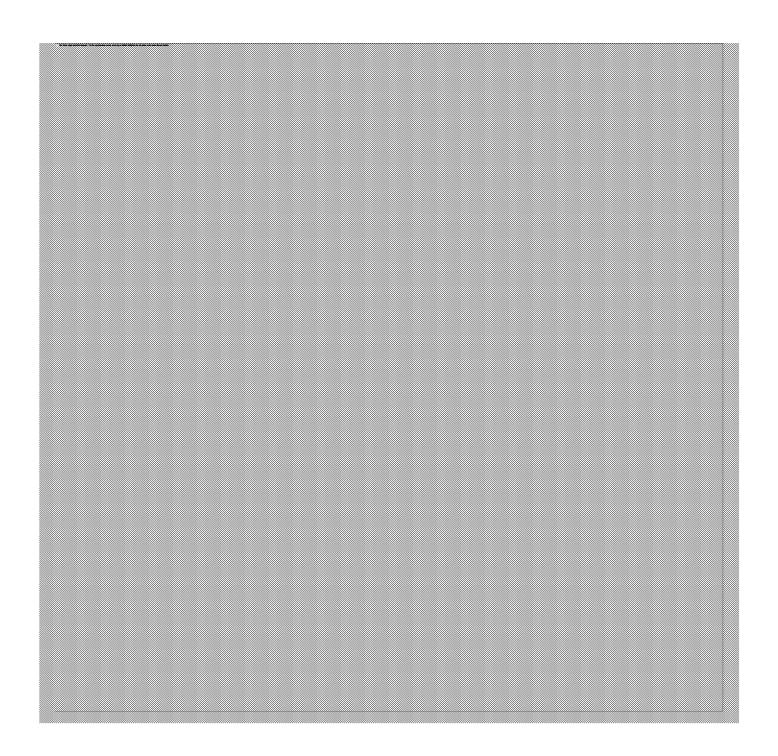
Subject: ALEC - Two Weeks Away!

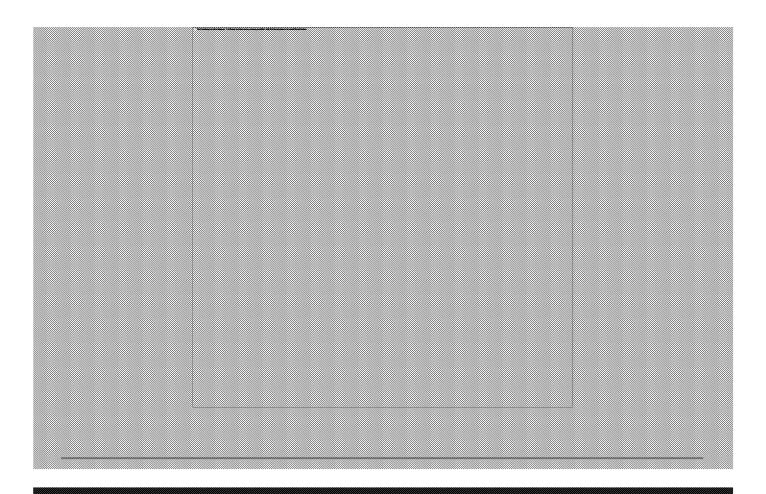


2017 States & Nation Policy Summit

December 6 - 8, 2017 - Nashville, TN

Look who will be in Nashville! Will you?





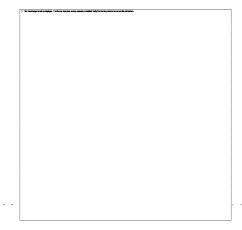
Workshops
Gain even more understanding of hot issues facing the states. Issue areas include:

- Free Speech
- Redistricting
- Medicaid Reform
- Criminal Justice Reform
- Opioids
- Grassroots Training
- Voting Integrity
- Drug Pricing
- Electric Grid



01 | Agenda

Wondering what will be discussed at the ALEC States and Nation Policy Summit? Visit the online agenda to see a detailed list of events taking place.



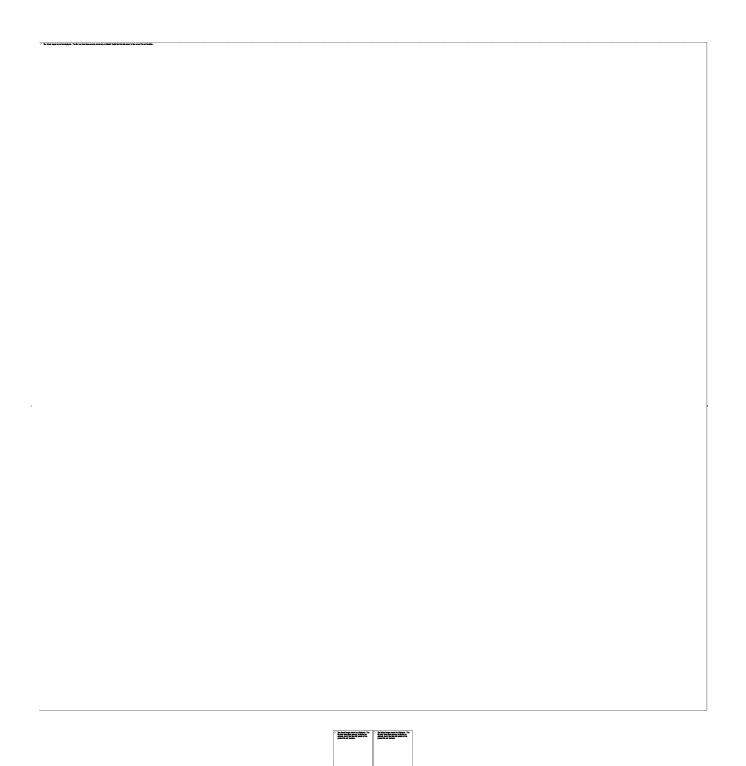
02 | Speakers

Are these speakers part of your Nashville playlist? The line-up includes Honorable Ken Cuccinelli, Steve Forbes, Larry Kudlow, Dr. Art Laffer, Steven Moore and Allie Stucky - to name a few.



03 | Networking

Looking to meet new friends or connect with old ones?
Join us for the Tennessee
Welcome Reception on
Wednesday, December 6 to
network and get a taste of
Tennessee!



This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202



Unsubscribe

.

Message

From: Dominguez, Alexander [dominguez.alexander@epa.gov]

Sent: 9/19/2017 3:03:49 PM

To: Geoffrey Moody [GMoody@afpm.org]

CC: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Re: Meeting Time

Geoff - when you arrive please call Mandy at [EX.6 Personal Privacy (PP)] or [EX.6 Personal Privacy (PP)] as I am in a mandatory meeting. If she doesn't answer you can call me at [EX.6 Personal Privacy (PP)] and I'll step out as soon as I can. Appreciate it.

Alex

Sent from my iPhone

On Sep 12, 2017, at 10:43 AM, Geoffrey Moody <<u>GMoody@afpm.org</u>> wrote:

Thanks Alex. If you could, add Derrick Morgan, AFPM's SVP for Federal Affairs, to the list, but I'm not sure if he'll join.

From: Dominguez, Alexander [mailto:dominguez.alexander@epa.gov]

Sent: Tuesday, September 12, 2017 10:41 AM **To:** Geoffrey Moody GMOOdy@afpm.org>

Subject: RE: Meeting Time

Geoff,

Confirmed for Tuesday, September 19th at 11:00AM.

Location: 1200 Pennsylvania Avenue, NW.

Directions: Please use the William Jefferson Clinton North Entrance located on your right as you exit the Federal Triangle Metro Station.

https://www.epa.gov/sites/production/files/2013-08/federaltrianglemap5.jpg

EPA Contact: For an escort from Security to the meeting call 202-578-5985 or 202-564-3164.

Will it be just you, or are others planning to attend as well?

Alex Dominguez

Policy Analyst to the Senior Advisors to the Administrator for Air and Water U.S. Environmental Protection Agency

From: Gunasekara, Mandy

Sent: Tuesday, September 12, 2017 10:35 AM **To:** Geoffrey Moody <GMoody@afpm.org>

Cc: Dominguez, Alexander < dominguez.alexander@epa.gov>

Subject: RE: Meeting Time

Looping in Alex to help firm up remaining logistics. I'll follow-up on RMP.

From: Geoffrey Moody [mailto:GMoody@afpm.org]
Sent: Tuesday, September 12, 2017 10:33 AM

To: Gunasekara, Mandy < Gunasekara, Mandy@epa.gov>

Subject: Meeting Time

Mandy, great talking to you. As discussed, I'm available next Tuesday at 11:00 to meet on various issues.

Thanks,

Geoff Moody

Vice President Government Relations

American
Fuel & Petrochemical
Manufacturers
1667 K Street NW
Suite 700
Washington, DC 20006
202,467,0480 office
202,552,8489 direct
202,457,0486 fax

gmoody@afpm.org

Learn more about AFPM at afpm.org

Message

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 9/18/2017 6:32:17 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]
Subject: Roadblocks to Greenfield Refinery or Major Expansions

Attachments: 20171918 Roadblocks to Greenfield Refinery or Major Expansion.docx

Outline of Major EPA Roadblocks to Greenfield Refinery or Major Refinery Expansion

1. Clean Air Act

- a. New Source Review: A major regulatory hurdle for a new refinery or major refinery expansion is receiving a new source review (NSR) permit prior to the commencement of construction. A major criticism of the permitting process is that it is long, costly and unpredictable. Depending on the location of the project there are two potential kinds of NSR permits. A prevention of significant deterioration (PSD) permit is required for any area in attainment or unclassified for a National Ambient Air Quality Standards (NAAQS). A Nonattainment New Source Review (NNSR) permit is required for any area in nonattainment for a NAAQS. We briefly discuss each in turn below:
 - i. **PSD Permitting** there are three major components of PSD permitting BACT determination, GHG BACT determination and Modeling. Streamlining these processes should be a priority.
 - 1. **Best Available Control Technology (BACT) determination:** BACT is a stringent emission limitation for each pollutant subject to regulation under the Clean Air Act. The BACT limit is determined by the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs. Because the determination is case-by-case, the final decision is highly dependent on the expertise and beliefs of the person processing the permit. This makes the process highly unpredictable. There are several other layers of review that add additional uncertainty. For instance after the state determines BACT, the U.S. EPA often reviews and can add additional requirements. Subsequently, NGOs often sue for judicial review of the determinations. This process is very costly and can last many years during which time the applicant must delay construction of the facility.
 - 2. **Greenhouse Gas (GHG) BACT:** The same process exists for determination of BACT for GHG emissions. If another pollutant triggers PSD permitting, an applicant is also required to determine BACT for GHGs.
 - 3. **Modeling:** An applicant that triggers PSD permitting must also model that the project does not cause or contribute to a NAAQS exceedances. As EPA has continued to make NAAQS more stringent, the accuracy of the models has not kept pace. EPA's models have been shown to consistently over-predict emissions impacts when compared to monitored values. Modeling requires hiring specific expertise to complete and also is highly dependent on negotiating with the state and EPA modeling staff on modeling inputs. Applicants will often accept limits that go beyond BACT in order to pass modeling demonstrations even though they do not believe the models to be accurate.
 - ii. **NNSR Permitting:** The two major hurdles to NNSR permitting are Lowest Achievable Emissions Rate (LAER) and emissions offsets.
 - 1. **LAER determination:** Similar to BACT determination, a LAER determination is made on a case-by-case basis but does not consider costs. Obtaining the permitting agency's approval of final LAER involves a lengthy negotiation, which makes the process unpredictable and very costly.
 - 2. **Offsets:** In nonattainment areas major emission increases must be offset by reducing emissions elsewhere. Finding offsets for the emissions that would result from

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construction of a new refinery would be very difficult, if not impossible, because there may not be enough offsets available or, if available, could be too costly.

2. Clean Water Act

- **a. Water Quality Based Effluent Limits (WQBELs):** Refineries must employ Best Available Technology (BAT) to address local water quality issues to ensure protection of water quality. This is highly dependent on where the refinery is located and into what water bodies the refinery will be discharging.
- **b. Refinery Effluent Limit Guidelines (ELGs):** In addition to WQBELs, EPA has adopted minimum technology standards that apply to all refineries. EPA is currently reviewing these standards to determine whether to reopen and make them more stringent. With the WQBELs driving investment where needed to address actual water quality concerns, making the ELGs more stringent would be a major hurdle to a new build because it will drive up the cost unnecessarily.
- **c. Section 401/404 Permits:** If a water body meeting the definition of "waters of the United States" will be impacted by the refinery construction, a Section 404 permit and Section 401 water quality certification will be required.
- **3.** Endangered Species Act The project could require a takings permit under the Endangered Species Act (ESA). This is a significant hurdle and is an important due diligence consideration when determining where to site a major facility. ESA determinations are often subject to petitions for review by NGOs in the federal courts.

4. Risk Management Plan (RMP) -

a. Safer Technology and Alternatives Analysis (STAA) – the RMP amendments, which are currently delayed, require the analysis and documentation of safer alternatives than the technologies being implemented. In the case of a new refinery, the documentation requirements would be extremely burdensome because there are usually several kinds of technologies available and the owner would need to document that it had analyzed each option.

5. National Environmental Policy Act (NEPA)

- **a.** A new refinery could trigger a requirement to conduct an environmental assessment (EA) and/or an environmental impact statement (EIS). The EA and EIS are performed by the agency and can take several months, if not longer, to complete. This process also triggers consideration of preservation of historic resources and tribal resources that are not environmental issues.
- **b.** A major issue under NEPA is the consideration of climate-related impacts using the social cost of carbon. Projects triggering NEPA potentially must determine climate-related impacts of foreseeable indirect GHG emissions. In the case of a new refinery, this analysis could require determining the GHG emissions from the fuels that will be produced and placed into commerce.

Note: Each of the requirements have public participation requirements or other means in which the public can object to the permit or agency approval and halt construction until the objection is resolved. Even if the lawsuits are not meritorious, applicants may choose to concede issues because litigating would delay the project. It is important that the permitting authorities and the applicants document the bases of the permit decisions so that the permits cannot be attacked on technicalities.

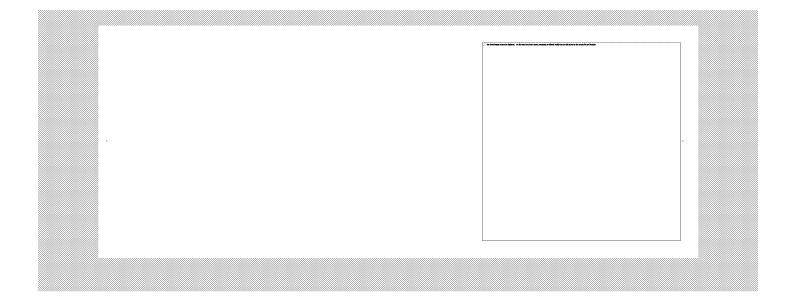
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From: Lisa B. Nelson [lisanelson@alec.org]

Sent: 1/26/2018 8:32:07 PM

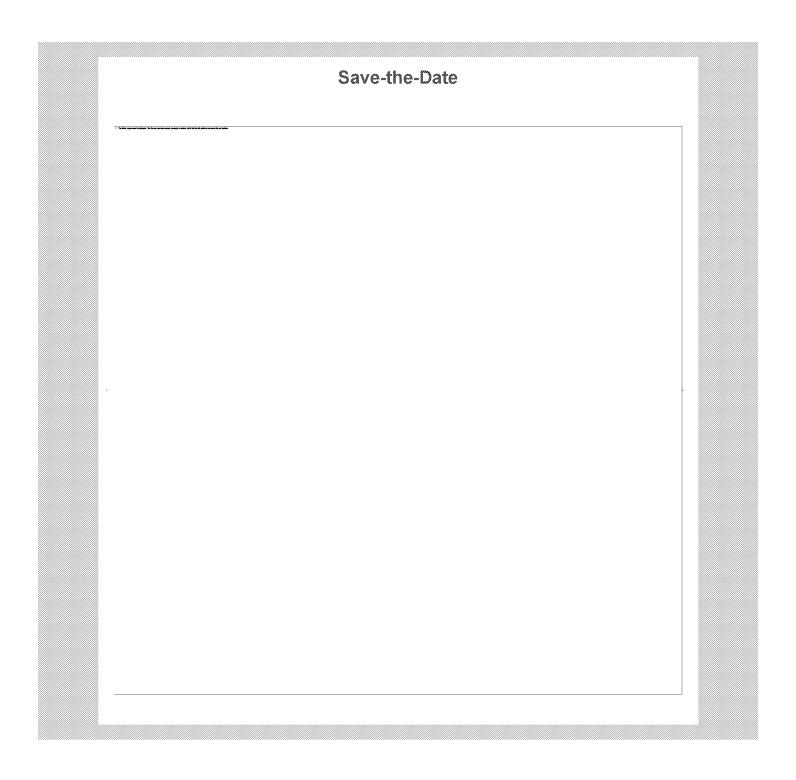
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

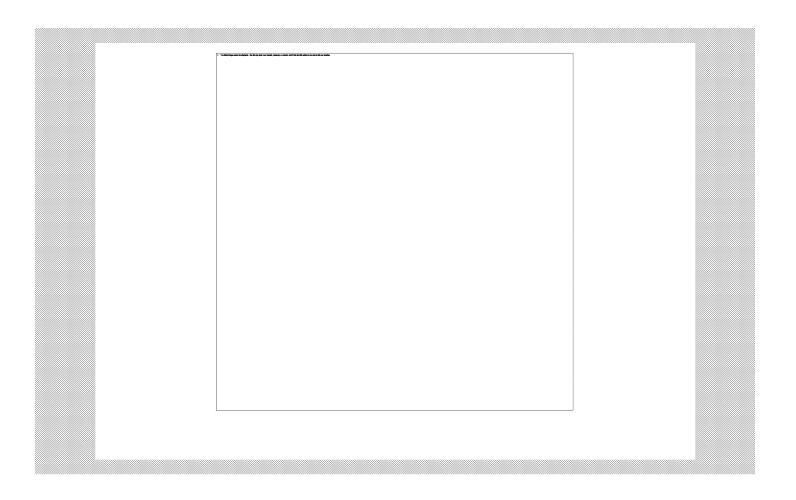
Subject: ALEC Registration Now Open

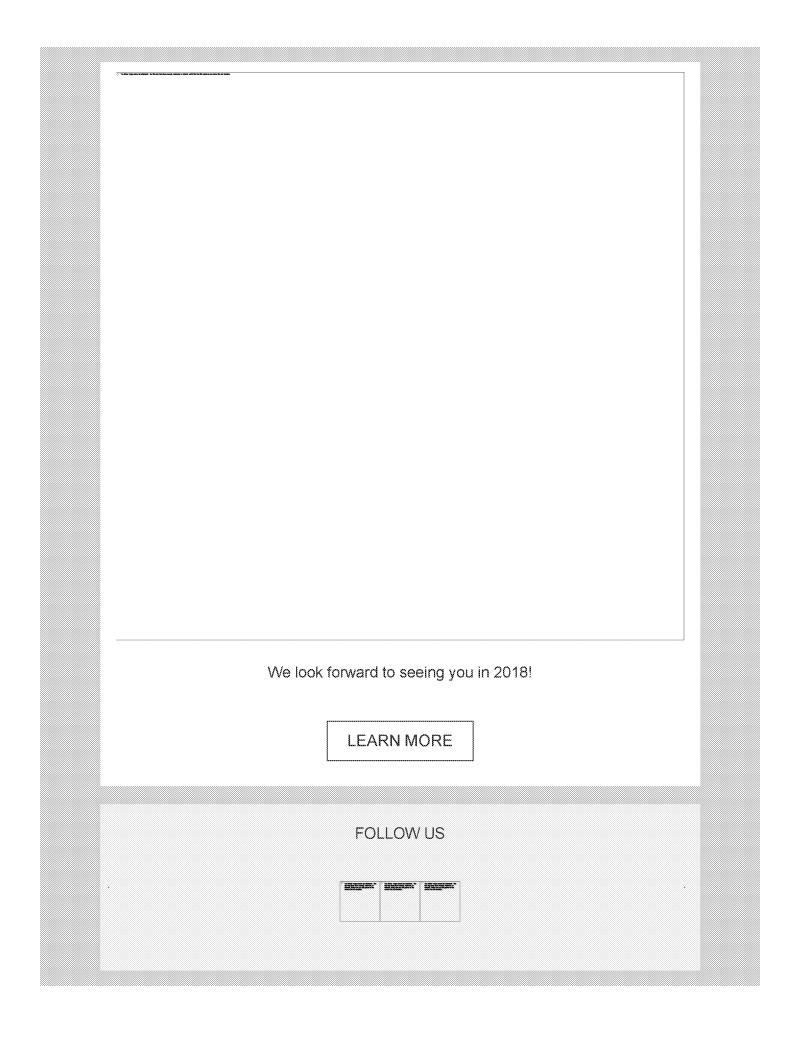


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	yearthe y Task 18. ne for you debate others to ount on

Sincerely,	
Lisa B. Nelson Chief Executive Officer American Legislative Exchange Council	
	Make your reservation today at the Amway Grand Plaza
Registration is now open for the 2018 Spring Task Force Summit Don't forget to use the discount code	Book now through April 6, 2018* at the ALEC rate of \$179 per night.
Don't forget to use the discount code below to receive 20% off the registration cost. STFS18-20percent	Book Now
Register Now	







Questions? Contact us at meetings@alec.org

Unsubscribe

This message was sent to gunasekara.mandy@epa.gov from lisanelson@alec.org

Lisa B. Nelson ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202

Message

From: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Sent: 7/13/2017 6:13:24 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]

Subject: Ozone

Mandy and Alex,

Thanks for meeting with us today. Hopefully that was helpful.

Mandy, you mentioned that you needed feedback on the 2 options on ozone within a week. I wanted to see if you guys had time sometime next week for another meeting or phone call with me and Tim Peterkoski, who is our Environmental Auditing & Processes Manager. Tim is in charge of these types of regulations for our entire company and has been working on the ozone issue a lot lately. I know he has a lot to contribute and would love to weigh in with you all before you make a decision.

Thank you in advanced for your consideration and we hope to speak to you soon.

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004

Direct: 202-442-2459 Cell: 202-213-2548 Fax: 202-442-2492

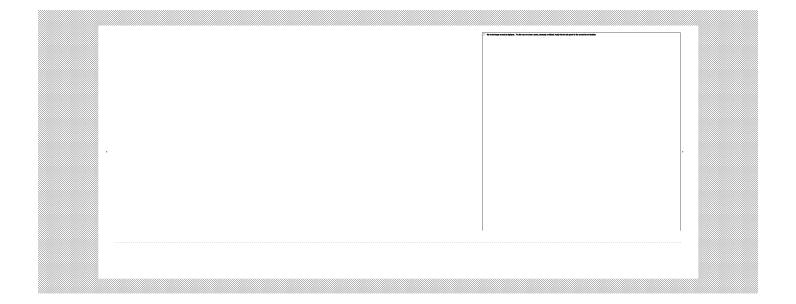
mjbirsic@marathonpetroleum.com

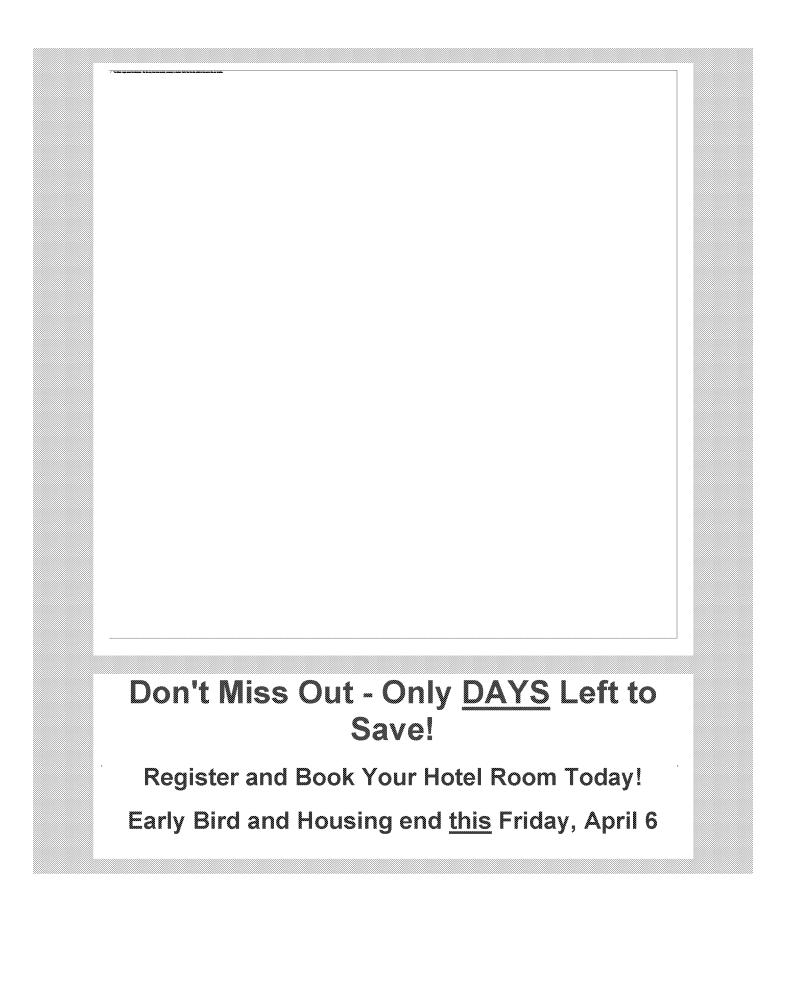
From: Courtney Cook [CCook@alec.org]

Sent: 4/5/2018 12:09:09 AM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: DON'T DELAY: Save Now!





Policy Spotlight: 30-Day Notification

As ALEC CEO, Lisa Nelson, mentioned in her monthly update, the best ideas are made even better when shared. As you make plans to attend the Spring Task Force Summit in Grand Rapids, MI, what perspective or unique point of view can you bring to discussions? Everyone benefits from the exchange of ideas that takes place at ALEC.

Last week, each task force director distributed draft model policy for consideration at the Spring Task Force Summit. Included on each task force's webpage are draft agendas for the subcommittees, working groups and the Task Force meetings. Each task force is linked at the bottom of this email. Please take a moment to visit their pages and learn more about what will be discussed at the summit. We look forward to seeing you in Grand Rapids, MI!

Spring Task Force Summit

When: April 27, 2018

Where: The Amway Grand Plaza

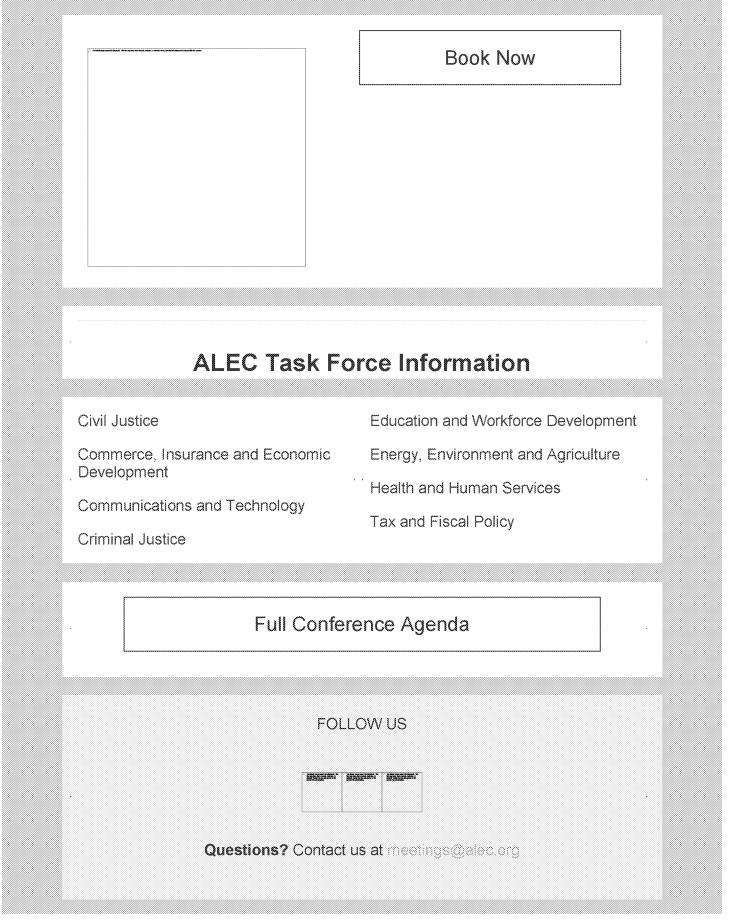
Grand Rapids, MI

Early Bird Deadline: April 6, 2018

Make your reservation at the Amway Grand Plaza

Book now through **April 6**, **2018*** at the ALEC rate of **\$179 per night**.

*based on availability



Unsubscribe

This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202



From: Courtney Cook [CCook@alec.org]

Sent: 9/16/2017 2:42:47 PM

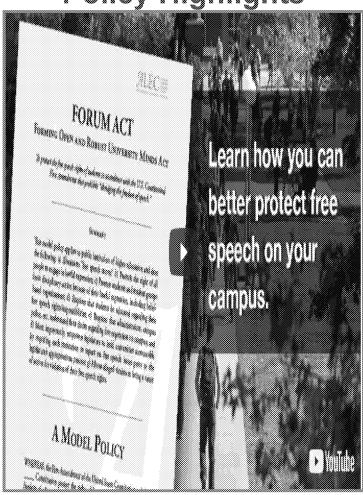
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: ALEC - Be the first to hear!



>> REGISTER NOW

Policy Highlights



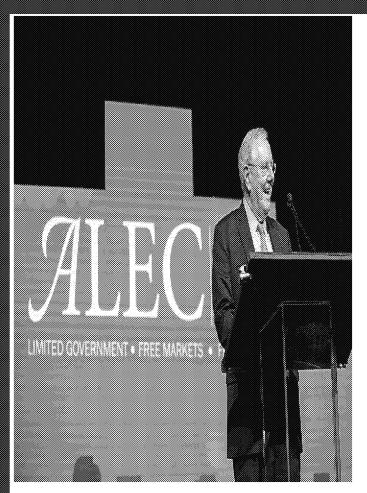
Shelby Emmett, Director of the ALEC Center to Protect Free Speech will be discussing issues around free speech at our the country? Consider making upcoming States & Nation Policy Summit. Register today to be a your mark in our Exhibitor Hall. part of the the discussion on the FORUM Act and what is means for University's in your state.



Interested in having a more prominent role and connecting with 800+ legislators and business leaders from across

Secure your spot today!

Invited Speakers Include...



A Tennessee Welcome from Senator Alexander, Senator Corker, Representative Black and Representative Blackburn

Secretary Tom Price

Administrator Scott Pruitt

A panel presentation from Mr. Steve Forbes, Mr. Steve Moore, Dr. Art Laffer and Mr. Larry Kudlow

Agenda at a Glance

Visit the online agenda for more information!

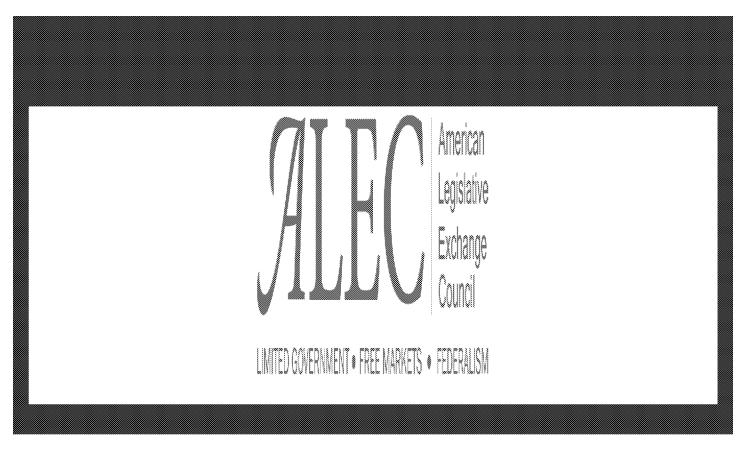
<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>
Registration	Registration	· Registration · Breakfast	Registration Breakfast
· Exhibitor Set-up	· Exhibit Hall		Dicaniasi

- Subcommittee
 Meetings
- Legislative Staff
 Fellowship
- Training
 Opening Lunch
 - · Workshops
- · Chair's Reception
- · Welcome Reception

- · Exhibit Hall
 - · Training
- · Legislative Staff Fellowship
 - · Workshops · Lunch
- · Task Force Meetings
- Task Force Receptions
 Jefferson Awards
 Reception and Dinner
 (Invitation Only)

- · Exhibit Hall
 - Training
- · Legislative Staff Fellowship
 - Workshops Lunch
- · Task Force Meetings
- Task Force Receptions
 State Night (Contact your State Chair for more Information)





This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook
ALEC
2900 Crystal Drive, 6th Floor
Arlington, VA 22202



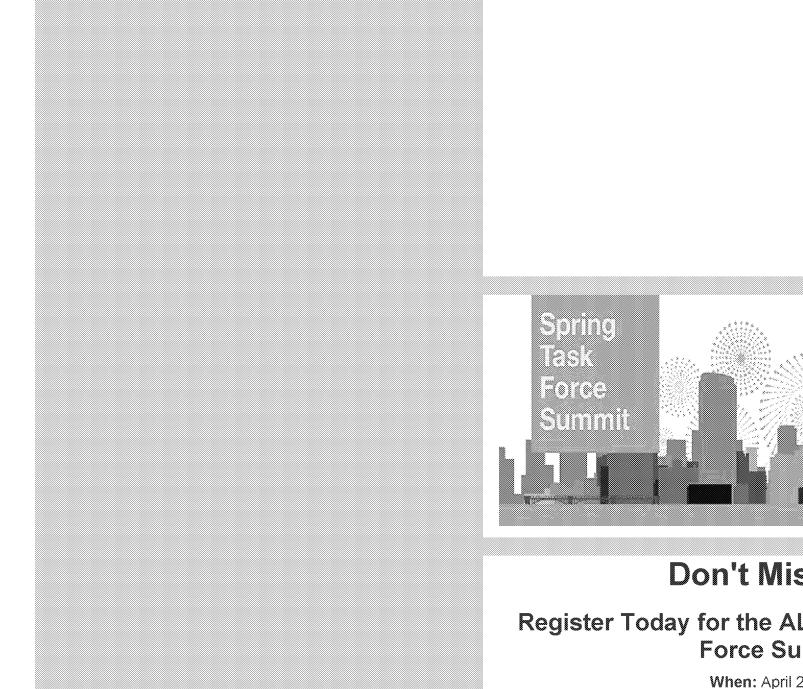
Unsubscribe

From: Courtney Cook [CCook@alec.org]

Sent: 4/20/2018 12:08:31 AM

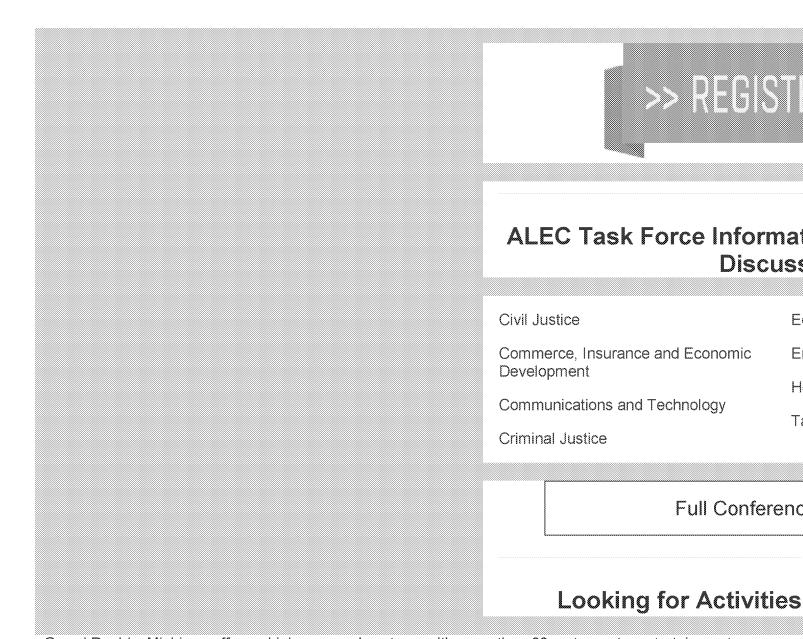
To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Don't Miss Out! 1 Week Till Grand Rapids!

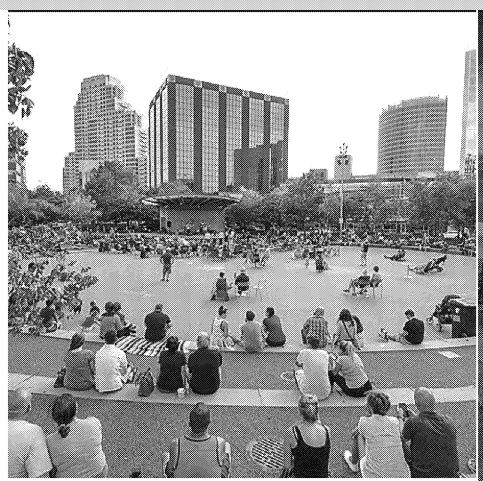


Where: The Amway

Grand Rapi



Grand Rapids, Michigan offers a high-energy downtown with more than 90 restaurants, entertainment venues ar Meijer Gardens & Sculpture Park, one of the Midwest's most popular tourist destinations, and the 28th Street retainment.





Grand Rapids Art Museum

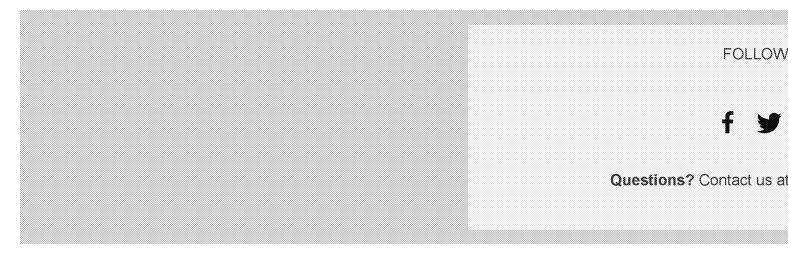
Gerald R. Presidential I

Grand Rapids is also a paradise for outdoor of for every interest. You're never more than six fishing, boating and swimming are favorite purisscross the region, passing through skyson And championship golf courses abound.

As the gateway city to Michigan's West Coas home base for exploring the wonders of the l charming resort villages, world-class beaches sunsets on earth.

Hope to see

*Photos courtesy of Experie



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This message was sent to **gunasekara.mandy@epa.gov** from **CCook@alec.org**

Courtney Cook ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202



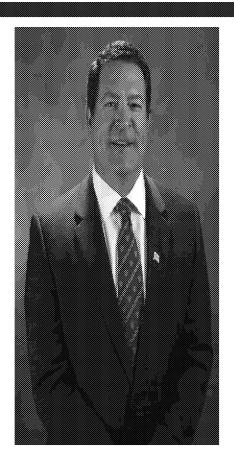
From: Courtney Cook [CCook@alec.org]

Sent: 10/28/2017 3:16:38 PM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: Will you be in Nashville?





Senator Mark Green 2017 States and Nation Policy Summit December 6 - 8, 2017

Senator Mark Green of Tennessee will welcome attendees to the ALEC 2017 States and Nation Policy and Music City at the Opening Lunch session on Wednesday, December 6, 2017. Keep your playlist going and join us for the Tennessee Welcome reception that evening!



View Video

Economist Steve Moore Invites You to Nashville

Early bird registration ends **November 9**. Sign up now to save!

>> REGISTER NOW

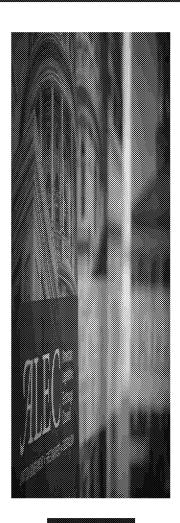


Exhibit in Nashville

Interested in having a more prominent role and connecting with 800+ legislators and business leaders from across the country?

Consider making your mark in our Exhibitor Hall.

Secure your spot today!

Exhibit



Reserve Now

Have you made your hotel reservation?

Book your room now as our discounted rate of \$209 is selling out QUICKLY!



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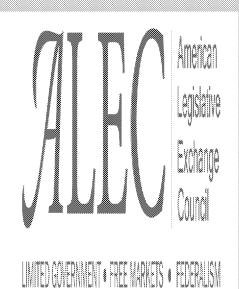
Unsubscribe

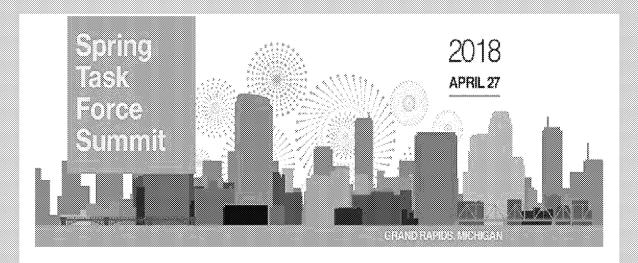
From: Courtney Cook [CCook@alec.org]

Sent: 3/1/2018 1:13:18 AM

To: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Subject: ALEC - You do not want to miss this!





Have you registered for the ALEC 2018 Spring Task Force Summit?

When: April 27, 2018

Where: The Amway Grand Plaza

Grand Rapids, MI

Early Bird Deadline: April 6, 2018

>> REGISTER NOW

Are you an ALEC Legislative Member?

Take advantage of our reimbursement program to help offset the cost of your attendance to the Spring Task Force Summit. One of the benefits of being an ALEC member is the opportunity to be reimbursed for your registration, hotel and travel expenses to our conferences. Reimbursement varies by state and by meeting.

For more information on how to apply or to contribute to the State Reimbursement program please contact Wes Fisher at wfisher@alec.org or (571) 482-5015.

Policy Spotlight: Criminal Justice Task Force



Did you catch the Facebook Live with ALEC Criminal Justice Task Force Director, Ronnie Lampard, highlighting the new state factor on overcriminalization and mens rea reform?

While the Criminal Justice Task Force agenda is still being finalized for the Spring Task Force Summit, a few of the topics to be discussed include new information about **criminal justice data** and **prisoner reentry**. Links to an initial agenda and

any proposed model policies, resolutions, or statements of principles under consideration will be sent to Task Force members in advance of the meeting. We are looking forward to seeing you in Grand Rapids, MI at the Spring Task Force Summit! Mark your calendar for March 13 as it is the deadline to submit any proposed model policy, resolution or statement of principles be considered at the Spring Task Force Summit. Full Conference Agenda Make your reservation today at the Amway Grand Plaza Book now through April 6, 2018* at the ALEC rate of \$179 per night. *based on availability **Book Now FOLLOW US**

Questions? Contact us at meetings@alectorg

Unsubscribe

This message was sent to gunasekara.mandy@epa.gov from CCook@alec.org

Courtney Cook ALEC 2900 Crystal Drive, 6th Floor Arlington, VA 22202 "Contact"

Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP From:

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]

Sent: 8/30/2018 4:29:17 PM

Geoffrey Moody [GMoody@afpm.org] To:

Subject: RE: Scheduling

Yes - that works.

From: Geoffrey Moody [mailto:GMoody@afpm.org]

Sent: Thursday, August 30, 2018 11:23 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Subject: RE: Scheduling

8:30 would be great. Want to just call my cell when you free up? Ex. 6 Personal Privacy (PP)

From: Gunasekara, Mandy < Gunasekara. Mandy @epa.gov >

Sent: Thursday, August 30, 2018 11:10 AM To: Geoffrey Moody <GMoody@afpm.org>

Subject: Re: Scheduling

Today is bad, but tomorrow will work. I can do early (8:30) or afternoon (3:30). Either of those work

Sent from my iPhone

On Aug 30, 2018, at 10:27 AM, Geoffrey Moody <GMoody@afpm.org> wrote:

Hi Mandy, hope things are well with you. Do you have a few minutes to catch up via phone sometime today?

Geoff Moody

Vice President Government Relations

American

Fuel & Petrochemical

Manufacturers

1800 M Street NW Suite 900 North Washington, DC 20006 202.457.0480 office 202.844.5489 direct 202.280.0430 mobile

gmoody@afpm.org

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From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]

Sent: 8/22/2018 8:24:36 PM

To: Richard Moskowitz [rmoskowitz@afpm.org]

Subject: Re: RMP

Hi Rich,

I'll work with the scheduling teams and figure our what works.

Best,

Mandy

Sent from my iPhone

On Aug 22, 2018, at 3:57 PM, Richard Moskowitz <RMoskowitz@afpm.org> wrote:

Good afternoon Mandy,

I'd like to get on your calendar to discuss the implications of the DC Circuit's ruling in the RMP delay litigation. I'm hoping Monday would work for you and your team, as we are up against a tight deadline. If you need to reach me, my cell is Ex. 6 Personal Privacy (PP)

Thanks,

Richard Moskowitz General Counsel

American
Fuel & Petrochemical
Manufacturers
1800 M Street, NW
Suite 900 North
Washington, DC 20036

202.844.5474 direct 202.457.0480 office

rmoskowitz@afpm.org

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From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]

Sent: 7/9/2018 4:12:34 PM

To: Geoffrey Moody [GMoody@afpm.org]

CC: Dominguez, Alexander [dominguez.alexander@epa.gov]

Subject: Re: Meeting Request

Yes - looping in Alex to help.

Best, Mandy

Sent from my iPhone

On Jul 9, 2018, at 12:08 PM, Geoffrey Moody <<u>GMoody@afpm.org</u>> wrote:

Hi Mandy, hope you had a great holiday last week despite everything happening over there. I know this is likely going to be a busy period for you, but was wondering if it would be possible to get on your calendar in the next couple weeks?

Thanks in advance,

Geoff Moody

Vice President Government Relations

American

Fuel & Petrochemical

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1800 M Street NW Suite 900 North Washington, DC 20006

202.457.0480 office 202.844.5489 direct 202.280.0430 mobile

gmoody@afpm.org

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From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]

Sent: 1/8/2018 2:03:17 PM

To: sdhigley@marathonpetroleum.com
CC: Woods, Clint [woods.Clint@epa.gov]

Subject: E-Connect

Hey Steve,

Great catching up for a bit. As promised, I've cc'd Clint Woods our new Deputy in the Air Office. He will be good to connect with regarding SSM.

Best,

Mandy

Mandy M. Gunasekara

Principal Deputy Assistant Administrator Office of Air and Radiation US Environmental Protection Agency

From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]

Sent: 1/2/2018 2:29:24 PM

To: Geoffrey Moody [GMoody@afpm.org]

Subject: RE: 2018

Hi Geoff – Yes, I'm free right now until 10 am. Give me a call if that works:

Ex. 6 Personal Privacy (PP)

From: Geoffrey Moody [mailto:GMoody@afpm.org]

Sent: Tuesday, January 2, 2018 9:23 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Subject: RE: 2018

Hi Mandy, I hope you had a great new year! Anyway, back to the grind and so just wanted to follow up on this request. Any chance you have a few minutes today or tomorrow for a quick call?

From: Geoffrey Moody

Sent: Tuesday, December 26, 2017 11:17 AM

To: Mandy Gunasekara (Gunasekara Mandy@epa.gov) < Gunasekara Mandy@epa.gov>

Subject: 2018

Mandy, I hope things are well and you had a great holiday! I was wondering if you were around this week for a 5 minute phone call? If not, maybe sometime early next week?

Thanks,

Geoff Moody
Vice President
Government Relations

American
Fuel & Petrochemical
Manufacturers
1667 K Street NW
Suite 700
Washington, DC 20006

Washington, DC 20006 202.457.0480 office 202.552.8489 direct 202.457.0486 fax

gmoody@afpm.org

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From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]

Sent: 7/3/2017 2:14:00 PM

To: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]; Dominguez, Alexander

[dominguez.alexander@epa.gov]

Subject: RE: Tier 3 Meeting

Mike,

Thank you for the outreach. Would be happy to set something up. Alex, please include Brittany and Sam on the invite. I look forward to seeing you soon.

Mandy

From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]

Sent: Monday, July 3, 2017 10:11 AM

To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>

Subject: Tier 3 Meeting

Mandy and Alex,

I hope you both are doing well. On Thursday, July 13, our Fuels Manager, Fred Walas, will be in Washington D.C. I wanted to see if you would be available to meet with us on Thursday morning to discuss Tier 3 gasoline and do a 101.

Thank you in advanced for your consideration and we hope to speak to you soon.

Mike

Michael Birsic

Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004

Direct: 202-442-2459 Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com

From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]

Sent: 3/22/2018 2:33:23 PM

To: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Subject: RE: Quick call

Will call in a few

From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]

Sent: Thursday, March 22, 2018 10:15 AM

To: Gunasekara, Mandy < Gunasekara. Mandy@epa.gov>

Subject: Quick call

Mandy,

Can you give me a quick call if you get a second? I wanted to give you a heads up on something potentially coming your way.

Mike

Michael Birsic

Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004

Direct: 202-442-2459 Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com

From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]

Sent: 11/28/2018 2:18:00 PM

To: Geoffrey Moody [GMoody@afpm.org]

Subject: Re: Reuters SRE report

Yes- will do. In short, it's not accurate. We will be issuing a clarifying statement

Sent from my iPhone

On Nov 28, 2018, at 9:17 AM, Geoffrey Moody <<u>GMoody@afpm.org</u>> wrote:

Hey Mandy! Any chance you can give me a call re this Reuters story? https://www.reuters.com/article/us-usa-biofuels-waivers-exclusive-idUSKCN1NX1D9

Geoff Moody

Vice President Government Relations

American Fuel & Petrochemical Manufacturers 1800 M Street NW

1800 M Street NV Suile 900 North Washington, DC 20006 202,457,0480 office 202,844,5489 direct 202,280,0430 mobile

gmoody@afpm.org

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From: Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]

Sent: 7/19/2017 12:31:27 AM

To: Amy Kjose Anderson [aanderson@alec.org]

Subject: Re: ALEC Annual Meeting logistics

Amy,

Thank you for the follow up and information. I'm in a cab headed to the hotel. I look forward to meeting you in person in the morning.

Best, Mandy

Sent from my iPhone

On Jul 18, 2017, at 7:34 AM, Amy Kjose Anderson <u>aanderson@alec.org</u>> wrote:

Ms. Gunasekara,

We are looking forward to having you speak at the ALEC conference this week. Kenny Stein is no longer with ALEC as of last Friday, so I am stepping in to run our Energy, Environment and Agriculture meetings at the ALEC Annual Meeting this week. I have included my contact information below. Don't hesitate to reach out if you need anything. As a reminder, we will be in room Centenniel A on Level 3 of the host hotel, the Hyatt Regency Denver, at 8am this Wednesday, July 19. We're looking forward to having you!

All my best, Amy Anderson Cell: 202-870-1110

Email: aanderson@alec.org

Amy Kjose Anderson Director, Civil Justice American Legislative Exchange Council (202) 870-1110

From: Kenneth Stein [mailto:kstein@alec.org]
Sent: Thursday, July 13, 2017 12:03 PM

To: Kenneth Stein

Subject: [EXTERNAL] ALEC Annual Meeting logistics

Thank you for agreeing to join us as a speaker for our Annual Meeting on Wednesday July 19th. This email is to be sure that you have my contact information, all listed below. Please do not hesitate to call my cell at 202-997-4858 should you encounter any logistical problems on your way to, or during, the event.

As a reminder, the meeting will be taking place at the Hyatt Regency Denver located at <u>650 15th Street Denver</u>, <u>CO 80202</u>. The Energy Environment and Agriculture Task Force will be meeting in Centennial Ballroom A located on the third floor from 8:00-10:20AM. When you arrive, please check in at Registration located in the Mineral Foyer, also on the third floor, where you will receive a speaker's badge which will allow you into the meeting area.

Each of your speaking times have been communicated to you individually, however if you are unsure about your speaking time, please reply back so that I can confirm with you.

There will be a laptop and projector available should you have any slides that you wish to use in your presentation. You may bring your slides on your own flash drive, or if you would prefer I set them up, please e-mail your slides to me if you have not already done so.

Please let me know if you have any questions, and looking forward to seeing each of you in Denver.

Kenny Stein

Director, Energy, Environment and Agriculture Task Force

Office: 571-482-5008 Cell: 202-997-4858 kstein@alec.org

2900 Crystal Drive, Suite 600 Arlington, VA 22202

<image001.png>

Upcoming Meetings:

2017 Annual Meeting – July 19-21, 2017 – Denver, Colorado 2017 States and Nation Policy Summit – December 6-8, 2017 – Nashville, Tennessee 2018 Spring Task Force Summit – April 27, 2018 – Grand Rapids, Michigan

The American Legislative Exchange Council is a 501(c)3 nonprofit organization and is the largest nonpartisan, voluntary membership organization of state legislators in the United States dedicated to the principles of limited government, free markets and federalism. The Council is governed by state legislators who comprise the National Board of Legislators and is advised by the Private Enterprise Advisory Council, a group of private, foundation and think tank members.

Website | Facebook | Twitter | Blog

From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]

Sent: 10/9/2017 7:56:40 PM

To: Chrissy Harbin [CHarbin@afphq.org]

Subject: RE: AFP Praises Clean Power Plan Repeal

Chrissy,

Great to hear from you. Thank you for passing along the statement! Hope you are well.

Best, Mandy

From: Chrissy Harbin [mailto:CHarbin@afphq.org]

Sent: Monday, October 9, 2017 3:54 PM

To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov> **Subject:** FW: AFP Praises Clean Power Plan Repeal

Hi Mandy,

In advance of tomorrow's announcement, our official statement is forwarded below and online here, FYI -

- https://americansforprosperity.org/afp-praises-clean-power-plan-repeal/

Chrissy Harbin | Vice President of External Affairs | Americans for Prosperity

M: (202) 560-1691 | E: charbin@afphq.org | T: @ChrissyHarbin

From: AFP Media < Media@afphq.org > Date: Monday, October 9, 2017 at 1:21 PM
To: Chrissy Harbin < CHarbin@afphq.org > Subject: AFP Praises Clean Power Plan Repeal

This is a major promise kept by the Trump administration.



NEWS RELEASE

FOR IMMEDIATE RELEASE: October 9, 2017

CONTACT: Chris Neefus, CNeefus@afphq.org

AFP Praises Clean Power Plan Repeal

Grassroots organization has opposed CPP for years

Arlington, Va. – Americans for Prosperity commended EPA Administrator Scott Pruitt today following his announcement that he will sign a proposed rule to repeal the Clean Power Plan (CPP) Tuesday. The group has long fought to protect Americans' access to affordable, reliable energy, opposing harmful regulations like the CPP that force dramatically higher costs on American households.

Under this job-killing Obama-era energy rule, states would be pushed into draconian emissions cuts, forced to switch to costlier forms of energy which could ultimately cost consumers as much as \$33 billion. AFP has consistently opposed harmful regulations like the CPP which would drive up energy costs for hard-working families, crush small businesses and expand federal powers with virtually no environmental benefit.

Americans for Prosperity had previously invested in <u>grassroots efforts</u> to oppose the Clean Power Plan and supported legal efforts from <u>state attorneys general</u> to halt its implementation. The group also recently <u>issued a statement</u> of support for Scott Pruitt's nomination to the EPA after he had been a leader in opposing the policy.

AFP Vice President of External Affairs Chrissy Harbin had the following to say:

"This is a welcome departure from the Washington-first, Americans-last approach that characterized energy and environmental policy under the previous administration. The Clean Power Plan (CPP) was an overreach of executive power; President Obama's attempt to implement an agenda so radical that he could not get it passed through Congress when his party controlled both chambers. It's great to see President Trump and EPA Administrator Pruitt rein in this sweeping mandate that forces states to slash their carbon emissions and switch to costlier forms of energy.

We are encouraged to see such decisive action by the Trump administration to offer relief from this legally dubious, drastic rule that posed such a significant threat to electricity prices and economic growth. This is a major promise kept by the Trump administration. Repealing the Clean Power Plan will restore these energy decisions to duly elected state officials, and Americans who need reliable energy to run their households and businesses. We look forward to continuing to work with policymakers in seeking policies that promote economic growth and protect Americans' access to affordable and reliable energy solutions."

The grassroots group has made unwinding overregulation a centerpiece of their <u>Reform America 2017</u> agenda, a set of legislative priorities that the group will advocate for this year.

For comprehensive information about AFP's steps to get Americans relief from over-burdensome regulations in the energy sector and beyond, or for an interview, contact Chris Neefus at CNeefus@afphq.org.

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BACKGROUND

AFP Has Led the Charge Against EPA Overreach For Years

- 2017: <u>The Media are Missing Trump's Much-Needed Regulatory Relief</u>, by Christine Harbin (Washington Examiner)
- 2017: AFP Executive Order on Energy Regulations is Right Direction (Release)
- 2017: Regulatory Reform Gets Spotlight in Washington, by Christine Harbin (Morning Consult)
- 2017: LETTER: AFP Supports Full, Fair Consideration of Scott Pruitt for EPA Administrator
- 2016: <u>Trump Administration Will Bring Huge Reform to Energy and Environment</u>, by Christine Harbin (Morning Consult)
- 2016: AFP Joins Coalition Asking Lawmakers To Overturn Ozone Regulations That Would Place "A Tremendous Burden On Communities Across America." "A coalition of 60 conservative groups is asking lawmakers to overturn the Obama administration's new ozone pollution rule and change the law under which it was written. 'The ozone regulation places a tremendous burden on communities across America,' the groups wrote to the heads of the House and Senate committees with jurisdiction over the EPA. ... The coalition includes some big names such as Americans for Prosperity and FreedomWorks, along with state and local groups and others with smaller footprints." (Timothy Cama, "Conservative Groups Target Ozone Law In Push For Rule's Rollback," The Hill, 5/9/16)
- 2016: AFP Praises SCOTUS Decision to Halt President's Clean Power Plan
- 2015: AFP Sends Press Release In Support Of The EPA Overregulation Of Rural Americans Act.
- 2015: AFP Sends Press Release Urging States To Push Back against EPA's "Clean Power" Overreach.
- 2014: AFP Sends Letter To State Legislatures Urging Them To Resist EPA's Clean Power Plan. "A coalition of conservative groups is pressing states to "fiercely resist" the Environmental Protection Agency's carbon pollution rule for existing power plants. The broad array of organizations sent a letter to state legislators, attorneys general and governors, calling on them to resist the administration's proposal at every turn and to refuse to help the EPA along its process. ... 'We urge you to fiercely resist any attempt to appease the EPA's demands. EPA's so-called Clean Power Plan (CPP) is illegitimate, an affront to both federalism and the separation of powers,' the letter states. The letter signed by Heritage Action, and the -backed Americans for Prosperity and American Commitment doesn't mince words, arguing the EPA can't control 'its appetite for power' and that the proposal can't be implemented in any 'feasible or responsible' way." (Laura Barron-Lopez, "Conservatives Urge States To 'Fiercely Resist' EPA's Climate Rule," The Hill, 12/5/14)
- 2014: New Obama EPA Water Rules Set to Drown Property Rights, Economic Growth
- 2014: Grassroots to Congress: Stop the EPA Power Grab!
- 2014: <u>AFP Sends Press Release Denouncing EPA's Carbon Regulation Rules That Would "Cost Billions Of Dollars And Hundreds Of Thousands of Jobs."</u>

For further information or an interview, reach Chris Neefus at CNeefus@afphq.org or (703) 517-4504.

View online

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From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]

Sent: 7/17/2017 7:00:47 PM

To: Leslie Sue Ritts [!ritts@rittslawgroup.com]; Dominguez, Alexander [dominguez.alexander@epa.gov]

CC: al_collins@oxy.com; Andy Eckstein, Esq. [eckstein.ta@pg.com]; Anu Kunapuli [anu.kunapuli@merck.com]; Barbara

Bankoff (babankoff@[ELSPRESSIDE] [babankoff@[ELSPRESSIDE] Catherine (EHLHARDT_CATHERINE_R@LILLY.COM) [EHLHARDT_CATHERINE_R@LILLY.COM]; Dana Wood (dana.wood@bp.com) [dana.wood@bp.com]; Dave C. Pavlich [Dave.C.Pavlich@p66.com]; david.l.shanks@boeing.com; DAVID VAN HOOG [David.VanHoog@bp.com]; David W. Moore (david.w.moore@boeing.com) [david.w.moore@boeing.com]; Don Robin [drobin@lilly.com]; Donna Carvalho (Donna.H.Carvalho@p66.com) [Donna.H.Carvalho@p66.com]; Elizabeth L. DuSold [e.dusold@lilly.com]; Elliott Heide (elliott_heide@oxy.com) [elliott_heide@oxy.com]; Hannah Valmont [valmonth@kochind.com];

Hermanson, Robert W [robert.hermanson@bp.com]; Jen Kreusch [kreusch_jennifer_lee_maund@lilly.com]; Jennifer Cogswell [COGSWELI@kochind.com]; Jessica LGonzalez [Jessica.Gonzalez@bp.com]; Kaufmann, Robert C.

[Robert.Kaufmann@kochps.com]; Ken Comey (Kenneth.Comey@bp.com) [Kenneth.Comey@bp.com]; Kristin

Marshall [kristin.b.marshall@boeing.com]; Lara Mathews (lara.mathews@invista.com) [lara.mathews@invista.com];

Leah M. Krider (Leah.M.Krider@boeing.com) [Leah.M.Krider@boeing.com]; Lomax, Steve [Steve.Lomax@kochps.com]; Maria Galloway [maria_galloway@merck.com]; Matthew L. Iwiki

(matt.iwicki@boeing.com) [matt.iwicki@boeing.com]; Maxine Dewbury [dewbury.md@pg.com]; Melissa Antoine (melissa.antoine@gapac.com) [melissa.antoine@gapac.com]; Michael Curtis (MICHAEL.CURTIS@GAPAC.com)

[MICHAEL.CURTIS@GAPAC.com]; Michael R. Van Winkle MS CIH [mvw@lilly.com]; Myles P Culhane [Myles_Culhane@oxy.com]; Nate Orosz (orosz.ns@pg.com), [orosz.ns@pg.com]; Peter Pagano [peter.a.pagano@boeing.com]; Rochelle Jozwiak [rochelle.jozwiak@invista.com]; RYAN GESSER (Ryan.Gesser@gapac.com) [Ryan.Gesser@gapac.com]; Sturla Olsen (sturla.olsen@boeing.com)

[sturla.olsen@boeing.com]; Tammy Wyles [trwyles@gapac.com]; Zufall, Maria J. [Maria.Zufall@gapac.com]

Subject: RE: Meeting with NEDA/CAP Briefly on July 27th Sometime Between 10-3.

Happy to – I've cc'd Alex Dominguez who can help confirm the logistics.

From: Leslie Sue Ritts [mailto:lritts@rittslawgroup.com]

Sent: Monday, July 17, 2017 2:36 PM

<kristin.b.marshall@boeing.com>; Lara Mathews (lara.mathews@invista.com) <lara.mathews@invista.com>; Leah M. Krider (Leah.M.Krider@boeing.com) <Leah.M.Krider@boeing.com>; Lomax, Steve <Steve.Lomax@kochps.com>; Maria Galloway <maria_galloway@merck.com>; Matthew L. Iwiki (matt.iwicki@boeing.com) <matt.iwicki@boeing.com>; Maxine Dewbury <dewbury.md@pg.com>; Melissa Antoine (melissa.antoine@gapac.com)

<melissa.antoine@gapac.com>; Michael Curtis (MICHAEL.CURTIS@GAPAC.com) <MICHAEL.CURTIS@GAPAC.com>; Michael R. Van Winkle MS CIH <mvw@lilly.com>; Myles P Culhane <Myles_Culhane@oxy.com>; Nate Orosz (orosz.ns@pg.com), <orosz.ns@pg.com>; Peter Pagano <peter.a.pagano@boeing.com>; Rochelle Jozwiak <rochelle.jozwiak@invista.com>; RYAN GESSER (Ryan.Gesser@gapac.com) <Ryan.Gesser@gapac.com>; Sturla Olsen (sturla.olsen@boeing.com) <sturla.olsen@boeing.com>; Tammy Wyles <trwyles@gapac.com>; Zufall, Maria J.
<Maria.Zufall@gapac.com>

Subject: Meeting with NEDA/CAP Briefly on July 27th Sometime Between 10-3.

Per my phone message this am Mandy, I wondered if you would have time to meet with NEDA/CAP members on July 27^{th} – next Thursday. We can come to your offices or you can come to us (Occidental Petroleum or Koch offices probably). The agenda would be very general and policy-oriented, an informal meet and greet with a discussion of our respective priorities.

NEDA/CAP's members are US manufacturers and include Alcoa, Boeing, BP America, Eli Lilly, Georgia Pacific, Invista, Koch Public Sectors, Merck, Occidental Petroleum, Phillips 66 and Procter & Gamble. (Intel might want to join as well.)

Best wishes,

484

Leslie Sue Ritts Ritts Law Group, PLLC 620 Fort Williams Parkway Alexandria, VA 22304 (703) 823-2292 (office) (703) 966-3862 (cell) Iritts@rittslawgroup.com

Please note new email address

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From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]

Sent: 6/6/2018 9:56:57 PM

To: Birsic, Michael J. [mjbirsic@marathonpetroleum.com]

CC: Atkinson, Emily [Atkinson.Emily@epa.gov]; Rakosnik, Delaney [rakosnik.delaney@epa.gov]

Subject: Re: RFS Meeting

Mike- great to hear from you. I'm looping in the scheduling team to see if we can make it work. We will follow up. Best,

Mandy

Sent from my iPhone

On Jun 6, 2018, at 5:05 PM, Birsic, Michael J. <mjbirsic@marathonpetroleum.com> wrote:

Mandy,

I hope you are doing well. I wanted to see if you and Mr. Wehrum had an opportunity on Wednesday, June 13 to meet with Dave Whikehart and the Marathon government affairs office on the RFS. We wanted to discuss with you RINs, the RVOs and the potential impact of redistributing RINs from the small refinery exemptions. I just learned that Dave is available almost all day Wednesday, so please let us know if there would be a time that day that works for you and Mr. Wehrum.

Thank you in advanced for your consideration and we hope to speak with you both next week.

Mike

Michael Birsic Marathon Petroleum Corporation 1201 F Street, NW, Suite 625 Washington, DC 20004 Direct: 202-442-2459

Cell: 202-213-2548 Fax: 202-442-2492

mjbirsic@marathonpetroleum.com

From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]

Sent: 5/8/2017 2:59:31 PM

To: Hupp, Sydney [hupp.sydney@epa.gov]

CC: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Subject: Admin. Meeting Request for MPC

Hi Sydney,

Marathon Petroleum Corp.'s CEO, Gary Heminger, will be in town June 20-21 and is looking to meet with the Administrator. I've cc'd Mike Birsic who is a good friend and is the point person for setting this up. Mr. Heminger would like to talk about RFS and air regulations, among other things.

Mike, fill in any missing details.

Sydney, let me know if you need anything else from my end in the interim.

Best,

Mandy

From: Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]

Sent: 5/8/2017 2:55:19 PM

To: Greenwalt, Sarah [greenwalt.sarah@epa.gov]

CC: Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]

Subject: Connection

Hi Sarah,

I'm cc'ing Mike Birsic is a good friend who represents Marathon Petroleum Co. He'd like to see about coordinating a meeting with you and Tim Peterkoski, MPC's lead on environmental issues who will be in town on Thursday. Tim would like to touch base on ELGs.

I hope you two can find a time to connect.

Best,

Mandy

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Gunasekara, Mandy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP
From:
               (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=53D1A3CAA8BB4EBAB8A2D28CA59B6F45-GUNASEKARA,]
Sent:
               4/18/2017 4:24:07 PM
               Birsic, Michael J. (MPC) [mjbirsic@marathonpetroleum.com]
To:
CC:
               Washington, Valerie [Washington.Valerie@epa.gov]
Subject:
               RE: Meeting Request
Mike - thank you for the note. I've cc'd Valerie Washington who can help arrange the logistics for a
meeting the last week of April.
Best.
Mandy
----Original Message----
From: Birsic, Michael J. (MPC) [mailto:mjbirsic@marathonpetroleum.com]
Sent: Monday, April 17, 2017 5:00 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Re: Meeting Request
Hey Mandy,
Hope you had a good weekend. Just wanted to follow up on our potential meeting next week.
Thanks.
Mike
> On Apr 11, 2017, at 7:49 AM, Birsic, Michael J. (MPC) <mjbirsic@marathonpetroleum.com> wrote:
> Mandy,
> I hope you are doing well. I would like to request a meeting with you the week of April 24. Dave Whikehart, our Vice President of Environment, Safety and Corporate Affairs will be in town for meetings
and we would like to specifically discuss with you the point of obligation with the RFS. As you are
aware, we are one of the refiners who opposes such a move and I think we have a lot of good data and the right person in town to make a compelling case for leaving the point of obligation in place with the
refiners and importers.
> Additionally, I wanted to share some data with you that will help supplement our future conversations.
Attached you will find a presentation with a variety of different data points. The first part of this
presentation goes into who exactly the RVOs were broken down for 2017 and even gets into specific details
on actual demand for products like EO, E15, and E85. Along with the RVOs, there are some slides that
show how RINs work and how they flow through the system. We originally pulled these earlier in the month, but if it helpful, I can have Dave pull any day of the year and he can show you the math always works out the same. And finally, we just have some high level points on the point of obligation, as well
as our letter to the EPA.
> I hope this information is helpful and that we are able to find a time that last week of April to get
together. In the meantime, please let me know if you have any questions or would like any more
information prior to our meeting.
> Mike
> Michael Birsic
  Marathon Petroleum Corporation
> Manager, Federal Government Affairs
> 1201 F Street, NW, Suite 625
> Washington, DC 20004
> Direct: 202-442-2459
> Cell: 202-213-2548
> Fax: 202-442-2492
> mjbirsic@marathonpetroleum.com<mailto:mjbirsic@marathonpetroleum.com>
> <20160909 MPC Letter to EPA on Point of Obligation.pdf>
> <20170411 EPA RIN Flow-Through Slides and RVO Data.pptx>
```

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]

Sent: 1/19/2018 8:07:36 PM **To**: rmoskowitz@afpm.org

CC: Atkinson, Emily [Atkinson.Emily@epa.gov]

Subject: Meeting request

Rich,

I am in receipt of your voicemail from yesterday morning. My apologies for taking so long to get back to you.

I wanted to let you know that, with Bill Wehrum's arrival, the OAR Immediate Office has now "regularized" its procedure for handling the meeting requests that come in to OAR. To that end, we're now asking people to direct their requests in the first instance to our Office Manager, Emily Atkinson. Emily, working with our Chief-of-Staff Josh Lewis, keeps us straight in terms of sorting through the requests that come in and figuring out how to integrate them into our respective schedules. (As I'm sure you can imagine, given the volume of requests Bill and others in OAR receive, any other *ad hoc* approach quickly proves "non-feasible," as it were.)

So, with that said, if you would be so good to put your request directly to Emily – I've taken the liberty of including her on this message, so that she will be apprised of, and be on the lookout for, your request when it comes in – she'll be able to work with you to figure out a mutually suitable date and time, who from EPA Bill may wish to have attend the meeting, and other assorted logistics. Then, once those things are worked out, Emily will take steps to get you "officially" on the calendar.

I look forward to seeing you again to talk about what are, of course, very important and timely issues.

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow David@epa.gov

From: Richard Moskowitz [RMoskowitz@afpm.org]

Sent: 3/16/2017 8:07:18 PM

To: Pruitt, Scott [Pruitt.Scott@epa.gov]

CC: Dunham, Sarah [Dunham.Sarah@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]; Bunker, Byron

[bunker.byron@epa.gov]; Argyropoulos, Paul [Argyropoulos.Paul@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]

Subject: AFPM - Petition for Reconsideration (2016 Cellulosic Biofuel Mandate)

Attachments: RFS 2016 cellulosic waiver reconsideration 031617.pdf

Dear Administrator Pruitt,

Attached please find a copy of the American Fuel & Petrochemical Manufacturers' petition for reconsideration of EPA's denial of our supplemental waiver petition to reduce the 2016 cellulosic biofuel mandate. On December 28, 2016, AFPM asked EPA to adjust the 2016 cellulosic biofuel mandate to equal the amount of cellulosic biofuel production actually produced. Three weeks later, EPA denied that request.

Reconsideration of EPA's denial is based on new information and is necessary to avoid obligated parties having to purchase cellulosic waiver credits for fuel that was never produced. Final cellulosic production data depicted on EMTS now confirms a 40 million gallon production shortfall from EPA's overly optimistic cellulosic production standard of 230 million gallons, as only 190.57 million gallons were actually produced in 2016.

If you or your staff have any questions concerning this matter, please contact me at (202) 552-8474, and we would be happy to schedule a meeting.

Richard Moskowitz General Counsel

American Fuel & Petrochemical Manufacturers 1667 K Street NW Suite 700 Washington, DC 20006 202,552,8474

rmoskowitz@afpm.org

Learn more about AFPM at afpm.org

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Richard Moskowitz
General Counsel

American
Fuel & Petrochemical
Manufacturers

1667 K Street, NW Suite 700 Washington, DC 20006

202.457.0480 office 202.552.8474 direct 202.457.0486 fax Rmoskowitz@afpm.org

March 16, 2017

Administrator Scott Pruitt U.S. Environmental Protection Agency 1200 Pennsylvania Avenue Washington, DC

RE: Petition for Reconsideration – Docket No. EPA-HQ-OAR-2015-0111

Dear Administrator Pruitt:

Pursuant to Section 307(d)(7)(B) of the Clean Air Act, the American Fuel & Petrochemical Manufacturers ("AFPM")¹ petitions the Administrator of the U.S. Environmental Protection Agency ("Agency" or "EPA") to reconsider its January 17, 2017 denial of AFPM's petition for a waiver of the 2016 Renewable Fuel Standard ("RFS") cellulosic biofuel standard.²

AFPM submitted its petition on December 28, 2016, near the end of the 2016 RFS compliance year.³ The petition was based on data posted in EPA's Moderated Transaction System ("EMTS"), which confirmed that the cellulosic biofuel industry produced significantly less cellulosic biofuel than estimated by EPA when it established the 2016 cellulosic biofuel standard.⁴ This data indicated that the production of cellulosic biofuel in 2016 would likely be between 173.8 and 190 million gallons, or about 40-60 million gallons short of EPA's mandated level of 230 million gallons of cellulosic biofuel in 2016.⁵

On January 17, 2017, EPA denied the petition based on the Agency's additional analysis that estimated the total number of 2016 cellulosic biofuel renewable identification numbers ("RINs") that were generated before and after January 1, 2017. Specifically, EPA included three memoranda and additional data as attachments to its January 17, 2017 denial of AFPM's petition.⁶

¹ AFPM is a national trade association of nearly 400 companies. AFPM represents high-tech American manufacturers, fueling and building America's future. Our members produce virtually all the refined petroleum products and petrochemicals manufactured in the United States and are obligated parties under EPA's RFS.

² Denial of AFPM Petition for Waiver of 2016 Cellulosic Biofuel Standard, Office of Transportation and Air Quality, January 17, 2017.

³ AFPM Petition to Administrator Gina McCarthy for Waiver of 2016 Cellulosic Biofuel Volumetric Requirements, December 28, 2016.

⁴ 80 Fed. Reg. 77420 (December 14, 2015).

⁵ AFPM Petition at 2.

⁶ Attachment A: Estimate of cellulosic biofuel volume requirement for 2016, David Korotney, Office of Transportation and Air Quality, January 10, 2016; Attachment B: Projecting 2016 Cellulosic RIN Generation On or After January 1, 2017, Dallas Burkholder, Office of Transportation and Air Quality,



AFPM Document March 16, 2017 Page 2 of 4

Given the short period of time between the submittal of AFPM's petition for a waiver and the denial of its petition by EPA, it was impracticable to raise objections to EPA's analysis or to review new information that became available following the submission of the petition. Additional information on cellulosic biofuel production and analytical information contained in Agency memoranda projecting post January 1, 2017 cellulosic biofuel RIN generation only became available concurrent with the Agency's waiver denial. Therefore, AFPM was unable to review or raise objections to EPA's analytical approach that formed the basis of its denial of our waiver petition or to provide other informed comment.

EPA also departed from past practice regarding consideration of RFS waiver requests. As opposed to its consideration of waiver requests submitted in 2008 and 2012, the Agency did not provide notice to the public in the *Federal Register* concerning the receipt of a waiver petition or allow interested parties to submit written comments.⁸

The matter of how much qualified cellulosic biofuel was produced in 2016 is of central relevance to EPA's denial of the waiver petition. Therefore, the Administrator must "convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed."

DISCUSSION

In *API v. EPA*, ¹⁰ the U.S. Court of Appeals for the District of Columbia Circuit vacated the 2012 RFS cellulosic biofuel standard due to the Agency's unrealistic projections for cellulosic biofuel production. Specifically, the court instructed EPA to abandon its role in "promoting growth" in cellulosic biofuel production and to embrace a prediction "that aims at accuracy, not at deliberately indulging a greater risk of overshooting than undershooting." ¹¹

When the Agency's projections are inaccurate and the standard is higher than actual production, obligated parties who do not own sufficient RINs, including carryover RINs, must purchase cellulosic waiver credits to make up the shortfall. For the 2016 standard, cellulosic waiver

January 11, 2017; Attachment C: 2016 Cellulosic Biofuel Carryover RINs Calculation, Nick Parsons, Office of Transportation and Air Quality, January 10, 2017.

⁷ See https://www.epa.gov/sites/production/files/2017-01/documents/afpm-rfs-petition-decision-ltr-2017-01-17.pdf

⁸ See Notice of Receipt of a Request From the State of Texas for a Waiver of a Portion of the Renewable Fuel Standard, 73 Fed. Reg. 29,753 (May 22, 2008); see also Request for Comment on Letters Seeking a Waiver of the Renewable Fuel Standard, 77 Fed. Reg. 52,715 (Aug. 30, 2012).

⁹ 42 U.S.C. § 7607(d)(7)(B). While EPA does not consider RFS waiver determinations to constitute an Agency "rule," judicial review pursuant to 42 U.S.C. §7607(b) is available with respect to "final action, taken by the Administrator under [the Clean Air Act.]." *Id.* §7607(b)(1).

¹⁰ See API v. EPA, 706 F.3d 474 (D.C. Cir. 2013).

¹¹ *Id.* at 479.



AFPM Document March 16, 2017 Page 3 of 4

credits cost \$1.33 each. Because actual production of cellulosic biofuel in 2016 has fallen far short of the 2016 standard, obligated parties will be required to pay millions of dollars to comply with this aspect of the RFS. And this expenditure is directly attributable to EPA's significant overestimation of cellulosic biofuel production for 2016.

AFPM attempted to address this situation with its waiver petition filed December 28, 2016. In its denial of the AFPM petition, EPA expected "an additional approximately 19 million 2016 cellulosic biofuel RINs to be generated after January 1, 2017." If these RINs had been generated, according to EPA "[t]his additional volume of 2016 cellulosic biofuel RINs would bring the total volume of 2016 RINs to 197 million gallons." But this didn't happen. Based on more recent EMTS information, this incremental, post January 1 posting of 2016 cellulosic RINs in EMTS was only 14 million gallons and the final total for 2016 cellulosic biofuel RINs generation is 190.57 million gallons. This is substantially below the 2016 RFS cellulosic biofuel standard of 230 million gallons and will directly result in the expenditure of millions of dollars by AFPM members to purchase cellulosic waiver credits.

This lower number of "available" RINs exacerbates the problems faced by obligated parties. ¹⁴ While EPA's waiver denial explicitly relies on a projection that 39 million "carryover" RINs will be available in 2016, parties that hold cellulosic biofuel RINs are under no compulsion to sell such RINs. This means that AFPM members could face difficulties in obtaining sufficient cellulosic biofuel RINs over the next two weeks (prior to the March 31, 2017 deadline) and could be effectively penalized if they are forced to carry a cellulosic biofuel deficit into 2017 or need to purchase additional cellulosic waiver credits due to a lack of available RINs. ¹⁵

Not granting a waiver also makes overall RFS compliance costlier. First, obligated parties who buy cellulosic waiver credits are essentially paying for a renewable fuel that does not exist and cannot be used by American consumers. This is contrary to the focus of the RFS on ensuring "transportation fuel sold or introduced into commerce in the United States . . . contains at least the applicable volume of renewable fuel." And it is, by definition, unproductive and uneconomic behavior. Second, as EPA points out, where there is a shortage of RINs as in 2016, their price tends to track the cost of cellulosic waiver credits as adjusted for the need to purchase

¹⁴ Many obligated parties are unable to acquire RINs through blending of renewable fuels, *i.e.*, less than 4 million of the 190 million cellulosic biofuel RINs generated in 2016 represented liquid biofuel, such as cellulosic ethanol that could be blended into gasoline.

¹² Denial of AFPM Petition at 2.

¹³ *Id*.

¹⁵ This provides another reason why EPA should extend the compliance date for the 2016 RFS, as previously requested by AFPM. Request to Delay 2016 RFS Compliance Date, Letter from Richard Moskowitz to Sarah Dunham, EPA Office of Air and Radiation, February 24, 2017.

¹⁶ 42 U.S.C. §7545(o)(2).



AFPM Document March 16, 2017 Page 4 of 4

other RINs when using credits for compliance.¹⁷ While credits beneficially serve to cap the price of RINs, where scarcity exists, there is no market incentive to price RINs lower than the cost of complying through cellulosic biofuel credits.

Therefore, if EPA does not reconsider the 2016 RFS final rule provisions on cellulosic biofuel, obligated parties will be required to spend millions of dollars complying with an RFS standard for fuel that was neither produced nor consumed in 2016. This result effectively imposes a phantom fuel tax on obligated parties based on EPA's overestimation of the amount of cellulosic biofuel production that would occur in 2016. Given that the tax will not result in the production of additional cellulosic biofuel in 2016, such a penalty does not further any purpose of the RFS program.

CONCLUSION

Based on new EMTS data confirming the magnitude of the shortfall in cellulosic biofuel production in 2016 and the resulting obligation to purchase cellulosic waiver credits for fuel that was never produced, this petition for reconsideration is both well supported and timely. We ask that you expeditiously grant this petition and take any other actions that are necessary to avoid imposing a mandate that is not required by the RFS and that will result in economic harm to AFPM's membership. Specifically, we request that you act on this petition prior to the March 31, 2017 deadline for compliance with the 2016 RFS cellulosic biofuel standard or take other action to extend the compliance deadline while consideration of our petition takes place. If you have any questions concerning the issues raised in this petition, please contact the undersigned at 202-552-8474.

Respectfully submitted,

Ruchel Markin.

Richard Moskowitz

cc: Sarah Dunham
Christopher Grundler

Byron Bunker

¹⁷ See Denial of Waiver Petition at 5, nt. 5. EPA projected that the total, average 2016 cost of an obligated party using a cellulosic waiver credit was \$2.22 (due to the need to purchase an advanced biofuel RIN for \$0.89) while the average price of a 2016 cellulosic biofuel RIN was \$2.01, making compliance through waiver credit purchases \$0.21 more expensive. When EPA compared the price of RINs purchased on December 28, 2016, however, compliance through credit purchases was \$0.10 cheaper than through the purchase of cellulosic RINs. But EPA's analysis does not examine what prices would be if there were a sufficient amount of RINs available (or conceivably some level of oversupply), making purchase of credits unnecessary.

From: Richard Moskowitz [RMoskowitz@afpm.org]

Sent: 2/12/2018 10:31:42 PM

To: Pruitt, Scott [Pruitt.Scott@epa.gov]

CC: Wehrum, Bill [Wehrum.Bill@epa.gov]; Grundler, Christopher [grundler.christopher@epa.gov]; Argyropoulos, Paul

[Argyropoulos.Paul@epa.gov]; Machiele, Paul [machiele.paul@epa.gov]; Weihrauch, John

[Weihrauch.John@epa.gov]

Subject: 2017 Cellulosic Waiver Petition

Attachments: Cellulosic Waiver Petition 2017 final 180212.pdf

Gentlemen,

Attached please find AFPM's petition for a supplemental waiver of the 2017 cellulosic biofuel standard. If you have any questions concerning this matter, please contact me at (202) 552-8474.

Respectfully,

Richard Moskowitz General Counsel

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Learn more about AFPM at afpm.org

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February 12, 2018

Administrator Scott Pruitt U.S. Environmental Protection Agency William Jefferson Clinton Building 1200 Pennsylvania Avenue, N.W. Mail Code: 1101A

RE: Petition for Waiver of 2017 Cellulosic Biofuel Volumetric Requirements

Dear Administrator Pruitt:

Washington, D.C. 20460

Pursuant to Section 211(o)(7)(A)(ii) of the Clean Air Act (CAA or Act), the American Fuel & Petrochemical Manufacturers (AFPM), on behalf of its U.S. refining members, hereby petitions the Environmental Protection Agency (EPA or the Agency) to waive the volumes of cellulosic biofuels required for the 2017 compliance year under the Renewable Fuel Standard (RFS) by an amount equal to the difference between the 2017 cellulosic mandate and the amount of cellulosic biofuel production in 2017 (hereinafter the Petition). EPA's data demonstrate that domestic cellulosic biofuel production in 2017 fell short of the 311 million ethanol-equivalent gallon mandate by approximately 83.6 million ethanol-equivalent gallons. Accordingly, AFPM requests that EPA exercise its waiver authority to reduce the cellulosic biofuel mandate by that amount.

BACKGROUND

AFPM represents high-tech American manufacturers, fueling and building America's future. Our members produce virtually all the refined petroleum products and petrochemicals manufactured in the United States and are obligated parties under EPA's RFS. AFPM's refining members are adversely impacted by EPA's overestimate of 2017 cellulosic biofuel production and are unable to acquire the requisite amount of cellulosic biofuel Renewable Identification Numbers (RINs) to comply with EPA's 2017 cellulosic mandate under the RFS.

In December 2016, EPA promulgated the applicable volumetric requirements for various renewable fuels under the RFS for compliance year 2017.² This rulemaking established the mandated volume of cellulosic biofuel for 2017 at 311 million ethanol-equivalent gallons. In promulgating the final rule, EPA exercised its waiver authority to reduce the statutorily-prescribed amount of cellulosic biofuel from 5.50 billion gallons to 311 million gallons. In

¹ To the extent additional cellulosic RINs are available for compliance, but are not presently listed on EMTS, EPA should update EMTS and adjust this waiver request to correspond to the actual shortfall of cellulosic RINs.

² See 81 Federal Register 89746 (December 12, 2016).



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connection with that rulemaking, AFPM supported EPA's decision to use its cellulosic waiver authority, but cautioned EPA that even the reduced cellulosic volumes EPA was contemplating in the proposal were too aggressive and unlikely to be achieved.

DISCUSSION

According to EPA's Moderated Transaction System (EMTS), there is a significant shortfall in the quantity of cellulosic biofuels produced in 2017. EPA established the cellulosic standard for 2017 based upon its predictions that cellulosic biofuel producers would manufacture 311 million ethanol-equivalent gallons. EMTS data show cellulosic biofuel production for 2017 totaled only 227.4 million gallons, meaning EPA significantly overestimated the available domestic supply to the tune of 83.6 million gallons.³ This 25 percent shortfall, combined with other factors discussed below, supports EPA's issuance of a supplemental partial waiver of the 2017 cellulosic standard.

A. The Clean Air Act Authorizes EPA to Grant This Petition.

Congress anticipated the possibility that its aggressive renewable fuel targets might not be achievable and established several waiver provisions in the CAA that EPA could use to relieve obligated parties of the duty to comply with unachievable mandates. Under Section 211(o)(7)(A) of the CAA, any person subject to the requirements of the RFS may petition EPA to exercise its waiver authority.

The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on petition by one or more States, *by any person subject to the requirements of this subsection*, or by the Administrator on his own motion by reducing the national quantity of renewable fuel required based on a determination by the Administrator, after public notice and opportunity for comment, that *there is an inadequate domestic supply*.⁴

Thus, AFPM, on behalf of its U.S. refining members subject to the RFS, is petitioning EPA to grant a partial supplemental waiver of the 2017 cellulosic biofuel standard in an amount equal to the shortfall of cellulosic biofuel production due to "inadequate domestic supply" of cellulosic biofuel.

³ See https://www.epa.gov/fuels-registration-reporting-and-compliance-help/2017-renewable-fuel-standard-data (last accessed on February 12, 2018).

⁴ 42 U.S.C. §7545(o)(7)(A)(ii) (emphasis added).



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B. The Failure to Grant the Relief Requested in this Petition Will Penalize Obligated Parties for the Conduct of Unrelated Third Parties.

Apart from the statutory justification described above, a supplemental partial waiver of the cellulosic biofuel mandate is necessary under the statute to prevent imposing a penalty on obligated parties who, in the face of an inadequate domestic supply of cellulosic RINs, would be forced to purchase cellulosic waiver credits under Section 211(o)(7)(D)(ii) at an approximate cost of more than \$165 million:

Whenever the Administrator reduces the minimum cellulosic biofuel volume under this subparagraph, the Administrator shall make available for sale cellulosic biofuel credits at the higher of \$0.25 per gallon or the amount by which \$3.00 per gallon exceeds the average wholesale price of a gallon of gasoline in the United States.5

EPA has established a cellulosic waiver credit price of \$2.00 for 2017.6 Based on the shortfall in cellulosic biofuel production, the 2017 "phantom fuel" penalty would exceed \$165 million. This is not what Congress intended. Indeed, the D.C. Circuit has looked unfavorably upon EPA's prior suggestion that obligated parties could purchase cellulosic waiver credits for the portion of the cellulosic mandate that was unfulfilled due to an overly-aggressive mandate that led to cellulosic biofuel production shortfalls:

Apart from their role as captive consumers, the refiners are in no position to ensure, or even contribute to, growth in the cellulosic biofuel industry. 'Do a good job, cellulosic fuel producers. If you fail, we'll fine your customers.'7

As the D.C. Circuit noted, it is unfair to penalize refiners for failing to purchase fuel that is not available. Congress recognized that such a situation could occur and granted EPA waiver authority to remedy such an inequitable situation. EPA should invoke its waiver authority here as it has done in previous years to align the cellulosic biofuel mandate to actual production volumes.

A partial waiver of the 2017 cellulosic biofuel volume obligation to reflect actual production numbers would be consistent with EPA's prior practice over the last six years. In the past when production has fallen short of the mandated volume, EPA and the D.C. Circuit have revised the cellulosic biofuel mandate to match actual production. For 2011, EPA responded to

⁵ 42 U.S.C. § 7545(o)(7)(D)(ii).

⁶ "Notice of Cellulosic Waiver Credit Calculation for 2017," https://www.epa.gov/renewable-fuel-standardprogram/notice-cellulosic-waiver-credit-price-calculation-2017#rule-summary.

American Petroleum Institute v. EPA, 706 F.3d 474, 480 (DC Cir. 2013).



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AFPM's petition for reconsideration and petition for review by "rescinding the 2011 cellulosic biofuel applicable standard and ... refund[ing] the money paid by obligated parties to purchase cellulosic waiver credits to comply with the standard."8 In a challenge to EPA's 2012 cellulosic mandate, the D.C. Circuit vacated the cellulosic mandate, noting that even though EPA originally waived most of the 500 million gallon statutory cellulosic mandate (i.e., establishing the mandate at 10.45 million ethanol-equivalent gallons), that mandate resulted in production shortfalls that unfairly penalized obligated parties.⁹

In 2013, EPA issued its final RFS rule approximately eight months after the compliance year had begun. In response, AFPM filed a petition for reconsideration demonstrating to the Agency that there would be a significant cellulosic production shortfall. EPA granted AFPM's petition for reconsideration and reduced the 2013 cellulosic mandate to reflect actual production. 10 In support of its decision, EPA cited to its overestimation of cellulosic biofuel production and the ensuing inequitable burden on obligated parties:

Finalizing this adjusted 2013 cellulosic biofuel standard expeditiously will reduce regulatory uncertainty and avoid unnecessary cost or burden for obligated parties. Until this adjusted cellulosic biofuel standard is finalized, obligated parties will have to comply with the current and significantly higher 2013 cellulosic biofuel standard. This would likely involve a substantial purchase of cellulosic waiver credits, which EPA would subsequently need to reimburse. 11

Similarly, in 2014 and 2015, EPA established the cellulosic biofuel mandates to match actual production volumes. EPA did not need to issue a supplemental waiver for these years because the standards were finalized after (or near) the conclusion of the compliance years. Thus, the cellulosic biofuel volume obligations mirrored the actual number of cellulosic RINs produced in those years. 12

The 2017 compliance year again presents a significant cellulosic biofuel production shortfall, which necessitates the issuance of a supplemental partial waiver.

C. Cellulosic Waiver Credits Are a Consumer Protection Mechanism.

The existence of the cellulosic waiver credit is not an alternative compliance mechanism to address shortfalls resulting from EPA's overly aggressive mandates. Congress included a

⁸ 80 Federal Register at 77419, 77508-09 (December 14, 2015).

⁹ See also 78 Federal Register 49794, 49828 (August 15, 2013) where, in the final RFS rule for 2013, EPA implemented the January 2013 court decision for 2012 cellulosic biofuels.

¹⁰ See 79 Federal Register 25025 (May 2, 2014).

¹¹ Id. at 25025,

¹² See 80 Federal Register 77420 (December 14, 2015).



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provision for obligated parties to purchase cellulosic waiver credits at a fixed price to limit the premium cellulosic biofuel producers could charge for their fuel and ensure consumers were not held hostage to purchase cellulosic RINs at prices that are uneconomical. The statute contains a formula that establishes the maximum premium that may be charged for cellulosic biofuel. ¹³ The availability of these credits creates a ceiling on the price cellulosic biofuel producers may charge for their fuel. This ceiling is equal to the price of an advanced biofuel RIN plus the calculated price for the cellulosic waiver credit. This important consumer protection mechanism protects obligated parties from the obligation to purchase cellulosic biofuel regardless of its price.

Congress did not intend for EPA to treat the cellulosic waiver credit as an alternative means of complying with the statute when the cellulosic biofuel mandate exceeds the domestic supply. Indeed, the D.C. Circuit specifically rejected EPA's reliance on the cellulosic waiver credits as an alternative compliance mechanism. EPA defended against a challenge to its 2012 cellulosic standard as being too high by claiming that "the availability of waiver credits means that obligated parties *always* have the means to comply with the cellulosic standard, and at a cost that is predictable." ¹⁴

The D.C. Circuit rejected this argument, noting that the cellulosic waiver credit applied in this manner would serve as an unreasonable penalty for behavior that is beyond the control of the obligated parties.¹⁵

D. <u>EPA's Rationale for Denying AFPM's Petition to Waive the 2016 Cellulosic Standard Is Inapplicable</u>

On December 28, 2016, AFPM petitioned EPA for a supplemental partial waiver of the 2016 cellulosic standard to address an *anticipated* 40-60 million gallon shortfall in cellulosic production that year. On January 17, 2017, EPA denied that petition, based in part on a new analysis of RINs to be attributed to late generation in December 2016. Departing from past practice, EPA rushed its denial out prior to the change in administration and did not take comment on AFPM's petition or its new analysis of 2017 cellulosic compliance options. AFPM petitioned for reconsideration based on this new information and that petition remains pending.

While AFPM does not concede the validity of EPA's reasons for denying AFPM's 2016 petition, the stated rationale for denying our 2016 waiver petition simply does not apply to the 2017 shortfall as we discuss in greater detail below.

-

¹³ See 42 U.S.C. § 7545(o)(7)(D)(ii).

¹⁴ API v. EPA, Reply Brief for Respondent EPA at 36 (filed August 20, 2012).

¹⁵ See API v. EPA, 706 F.3d at 480 ("Apart from their role as captive consumers, the refiners are in no position to ensure, or even contribute to, growth in the cellulosic biofuel industry. 'Do a good job, cellulosic fuel producers. Do a good job, cellulosic fuel producers. If you fail, we'll fine your customers.'").



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1. The Quantity of Carryover RINs Available to Satisfy the 2017 Cellulosic Mandate is Inadequate.

EPA largely denied AFPM's 2016 petition by finding that obligated parties would not need to purchase cellulosic waiver credits because there were adequate carryover RINs available for compliance. This finding is incorrect. In its denial, EPA estimated there were 39 million cellulosic carryover RINs available for compliance. The existence of carryover RINs at the macro level, however, does not mean those RINs are actually available to all obligated parties on an open market. Because RINs are valid for two years, individual obligated parties may "bank" carryover RINs to mitigate the risks of supply fluctuations and ensure compliance in future years, rather than sell them to other obligated parties. Indeed, given EPA's history of overestimating cellulosic biofuel production, some obligated parties may be incentivized to retain these surplus RINs rather than sell them to other obligated parties. As a result, carryover RINs are not always available to all obligated parties when a surplus exists. In its denial of AFPM's petition, however, EPA failed to analyze the "real world" operation of the cellulosic biofuel RIN market and the ability of individual obligated parties to actually obtain carryover cellulosic RINs.

In addition, today, only 31.4 million 2016 cellulosic carryover RINs remain, which is wholly insufficient to offset the current production shortfall. As noted above, EMTS data show a 2017 shortfall of 83.6 million RINs. This means there is more than a 50 million RIN gap between the supply of 2016/2017 cellulosic biofuel RINs available for compliance and EPA's final 2017 standard. Simple math indicates that obligated parties will be required to purchase millions of cellulosic waiver credits to comply with the 2017 standard. As such, in the context of this Petition, EPA cannot base its decision on the existence of carryover RINs since they simply will not exist for many obligated parties or in anywhere near sufficient quantities for all obligated parties.

2. Obligated Parties Do Not Act in Concert and Are Unlikely to Suppress Cellulosic Biofuel Production.

In its denial of AFPM's 2016 petition, EPA asserted that cellulosic biofuel producers and/or blenders may be unable or unwilling to store cellulosic biofuel or hold cellulosic biofuel RINs until after the end of the compliance year. ¹⁶ Whether cellulosic biofuel producers and/or blenders are willing to store cellulosic biofuel or RINs is not relevant to this Petition, and in the context of EPA's denial of the 2016 petition, the Agency has not produced any data supporting

¹⁶ EPA Denial of 2016 Supplemental Waiver Petition at 3: "[I]f obligated parties believed that such waivers would be granted even in situations where use of available carryover RINs would allow compliance with the unadjusted standard, then obligated parties may decide to postpone acquisition of cellulosic biofuel or cellulosic RINs in future years, based on hopes of a waiver, thereby potentially harming the prospects of cellulosic biofuel producers who rely on ongoing sales of their product to remain profitable and competitive and undermining the articulated goals of Congress in establishing the RFS program."



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its assertion. EPA's suggestion that obligated parties would delay the purchase of cellulosic RINs in an effort to disrupt ongoing sales of cellulosic biofuel to secure a future supplemental waiver is preposterous.

The vast majority of obligated refiners do not produce cellulosic biofuel and are in no position to suppress the generation of these cellulosic RINs. Once cellulosic biofuels are produced, a corresponding amount of RINs are attached and registered on EMTS regardless of whether those RINs are purchased by an obligated party. AFPM is not requesting a waiver of the cellulosic mandate based on RINs generated and available on EMTS. AFPM is asking EPA to waive the portion of the standard corresponding to cellulosic biofuel that was *never produced*. In other words, even if obligated parties chose not to purchase RINs until the compliance date at the conclusion of the year, those unpurchased RINs would still be recorded on EMTS, available, and would not be within the scope of this Petition based on inadequate domestic supply. Because cellulosic biofuel demand is driven by the initial promulgation of the annual mandate, a supplemental waiver following completion of the compliance would not "depress the demand for" or "investment in the production of cellulosic biofuel." The "investment risks already experienced by this nascent industry" are the same regardless if EPA issues a supplemental waiver based on the shortfall of cellulosic production during the compliance year.

3. Cellulosic Waiver Credits and Running Deficits Operate as Unnecessary Penalties on Obligated Parties Who Have no Ability to Produce or Blend Cellulosic Biofuel.

EPA should recognize that the failure to issue a supplemental partial waiver of the cellulosic biofuel standard would act as a penalty on obligated parties, who through no fault of their own would be forced to purchase cellulosic waiver credits or run a compliance deficit. Discussions with AFPM members indicate that most obligated parties do not view the deficit option as a viable compliance mechanism, as the regulations prevent obligated parties from incurring a deficit in two consecutive years, and RFS obligations have increased year-over-year. Running an RFS deficit is a risky financial decision. This leaves the purchase of cellulosic waiver credits as the only reasonable compliance path for most obligated parties.

In its denial of AFPM's 2016 petition, EPA stated:

EPA may slightly over-estimate or underestimate production from year-to-year does not establish that a slight over-estimate creates an unjust 'penalty, just as the availability of carryover RINs from years where EPA underestimated volume when setting the standard should not be seen as an unjust boon or bonus.¹⁹

¹⁷ EPA Denial of AFPM 2016 petition at 3.

¹⁸ *Id.* at 4.

¹⁹ *Id.* at 5.



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We acknowledge that EPA cannot be expected to predict the precise quantity of cellulosic biofuel and we do not expect EPA to adjust for *de minimis* variances; however, this year, the variance between EPA's estimate and actual cellulosic production currently puts obligated parties on the hook to purchase more than \$100 million in waiver credits.²⁰ This variance is not *de minimis* and is not what Congress intended.

* * * *

EPA should take prompt action on this Petition. While the Clean Air Act requires EPA to act on this Petition within 90 days, ²¹ we respectfully request a more expeditious decision because the 2017 compliance must be assured on or before March 30, 2018 (per 40 CFR 80.1451(a)(1)), just weeks away. ²²

Given the clear shortfall in cellulosic biofuels produced in 2017 and prior precedent, it is not reasonable to require the purchase of cellulosic waiver credits while EPA solicits public comment and completes other required elements of the waiver process, including consultation with the Departments of Agriculture and Energy.

If you have any questions concerning the issues raised in this Petition, please contact the undersigned.

Respectfully submitted,

Richard Moskowitz General Counsel

cc: William Werhum
Christopher Grundler
John Weihrauch

²⁰ The current cellulosic biofuel shortfall identified in EMTS would require obligated parties to purchase approximately \$165 million in cellulosic waiver credits. Last year approximately 12 million cellulosic biogas RINs were added in EMTS after the January update. If additional 2017 biogas cellulosic RINs become available this month, the cellulosic waiver credit purchase obligation would be correspondingly reduced.

²¹ See 42 U.S.C. §7545 (o)(7)(B).

²² Note that the regulatory compliance date (March 31, 2018) is a Saturday.

Message

From: Glenn Louque [glouque@marathonpetroleum.com]

Sent: 4/4/2018 9:12:02 PM

To: Pruitt, Scott [Pruitt.Scott@epa.gov]

Subject: Don't expand ethanol

Dear Administrator Pruitt,

As you evaluate options on the Renewable Fuel Standard (RFS), I respectfully ask that you not impose more E15 on consumers by granting an RVP waiver.

Studies have proven that E15 poses a critical threat to marine engines. This damage puts anglers and boaters at risk and hurts the nearly 35,000 recreational marine businesses in the United States.

Marine engines are only certified to run on fuel blends of E10 or lower; anything higher poses serious problems, including performance issues like stalling, corrosion leading to oil or fuel leaks, increased emissions and damaged valves, rubber fuel lines and gaskets. Many consumers are unaware of these dangers, posing a real threat to the safety of 142 million American boaters and the products the industry supplies.

These concerns similar to those of motorcyclists, snowmobilers, classic car enthusiasts, and any user of small engines like chainsaws and lawnmowers.

Rather than allowing for year-round sale of E15, we urge you to focus efforts on reforming the RFS, directing the EPA to better educate consumers on proper fuel choices at the pump, and ensuring market demand is better reflected in our fuel policies.

Boaters want a stable supply of E10 and more availability of ethanol-free fuel - not harmful E15 blends that damage their engines and boats.

Thank you.

Sincerely,

Glenn Louque 2027 W Park Ave Schriever, LA 70395 glouque@marathonpetroleum.com

Wheeler, Andrew [wheeler.andrew@epa.gov] From:

Sent: 4/20/2018 6:48:55 PM

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Kundinger, Kelly [kundinger.kelly@epa.gov]; Leopold, Matt [Leopold.Matt@epa.gov]; Letendre, Daisy [letendre.daisy@epa.gov]; Lovell, Will (William) [lovell.william@epa.gov]; Lyons, Troy [lyons.troy@epa.gov];

McMurray, Forrest [mcmurray.forrest@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Palich, Christian

[palich.christian@epa.gov]; Rodrick, Christian [rodrick.christian@epa.gov]; Ross, David P [ross.davidp@epa.gov]; Schwab, Justin [Schwab.Justin@epa.gov]; Seabaugh, Catherine [seabaugh.catherine@epa.gov]; Shimmin, Kaitlyn

[shimmin.kaitlyn@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Wagner, Kenneth

[wagner.kenneth@epa.gov]; Wehrum, Bill [Wehrum.Bill@epa.gov]; White, Elizabeth [white.elizabeth@epa.gov];

Wilcox, Jahan [wilcox.jahan@epa.gov]; Woods, Clint [woods.clint@epa.gov]; Yamada, Richard (Yujiro) [yamada.richard@epa.gov]; jdokeeffe@ [ELE D PARSONAL PRIVATOR | MaryAnne.Dunlap@sanofi.com; Michele Nellenbach

[mnellenbach@bpcaction.org]; Andrews, Joshua L. [Joshua.Andrews@FaegreBD.com]; Matthew Hite

[mhite@gpamidstream.org]

Subject: FYI: Reminder: Please RSVP - EPA Deputy Administrator's Ceremonial Swearing-In

Location: Green Room **Start**: 5/4/2018 3:00:00 PM **End**: 5/4/2018 4:30:00 PM

Show Time As: Free

Message

Richard Moskowitz [RMoskowitz@afpm.org] From:

11/21/2017 9:17:48 PM Sent:

To: Wehrum, Bill [Wehrum.Bill@epa.gov] CC: Baptist, Erik [baptist.erik@epa.gov]

Subject: BBD imports - new data

Attachments: AFPM - U.S. Imports of Biodiesel (Sept 2017).pdf; EPA ltr re BBD imports 112117 FINAL.pdf

Bill,

I hope you are settling in to your new role. Attached is a letter transmitting trade data confirming that biodiesel imports from Argentina and Indonesia have ceased. Please consider this information as you complete work on the 2018 RFS final rule.

Richard Moskowitz General Counsel

American Fuel & Petrochemical Manufacturers

Sent from my iPhone - Please excuse brevity and typos.

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]

Sent: 12/22/2017 4:39:47 PM

To: Richard Moskowitz [rmoskowitz@afpm.org]

Subject: Re: Meeting Request

Thanks Rich. I will make sure they follow up. Hope you have a happy holiday too.

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

On Dec 22, 2017, at 11:36 AM, Richard Moskowitz <RMoskowitz@afpm.org> wrote:

Hi Bill.

Just following up on this to let you know I haven't heard from your scheduler. If you'd like me to follow up with them directly, let me know. In the meantime, I hope you and your wife have a very happy holiday.

Thanks,

Richard Moskowitz General Counsel

American Fuel & Petrochemical Manufacturers 1667 K Street NW Suite 700 Washington, DC 20008 202,552,8474

rmoskowitz@afpm.org

Learn more about AFPM at afpm.org

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From: Wehrum, Bill [mailto:Wehrum.Bill@epa.gov]
Sent: Wednesday, December 6, 2017 7:40 AM
To: Richard Moskowitz < RMoskowitz@afpm.org>

Subject: RE: Meeting Request

Hi Rich. Happy to meet. I'll send this along to my scheduling folks. They will reach out to you to find a suitable time.

From: Richard Moskowitz [mailto:RMoskowitz@afpm.org]

Sent: Wednesday, December 6, 2017 7:38 AM **To:** Wehrum, Bill <<u>Wehrum, Bill@epa.gov</u>>

Subject: Meeting Request

Good morning Bill,

I hope you're settling in nicely. AFPM would like to schedule a meeting with you and your team to discuss state ZEV mandates. Would you please reply to this email with some times that work for you and your team?

Thanks,
-Rich

Richard Moskowitz

General Counsel

American
Fuel & Petrochemical
Manufacturers
1667 K Street NW
Suite 700
Washington, DC 20006
202,552,8474

rmoskowitz@afpm.org

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Burton, Tamika [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP From: (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=207E0F24FD934D6D8A3E4C400A311638-BURTON, TAM] Sent: 4/20/2018 5:42:43 PM Wheeler, Andrew [wheeler.andrew@epa.gov]; |wyak@ Ex. & Personal Privacy (PP) | msquared615@ Ex. & Personal Privacy (PP) |
Vmcwhorter@smithpachter.com; |auren.tabbara@ Ex. & Personal Privacy (PP) | jak1201@ Ex. & Personal Privacy (PP) | To: Dave.Zook@faegrebd.com; Mary.Bono@faegrebd.com; Josh.Andrews@faegrebd.com; Darrin.Munoz@faegrebd.com; Brandon.Kirkham@faegrebd.com; Ted.Bristol@faegrebd.com; Frank.Swain@faegrebd.com; Debra.Lappin@faegrebd.com; David.Gogol@faegrebd.com; Skip.Stitt@faegrebd.com; Michael.Adelberg@faegrebd.com; Libby.Baney@faegrebd.com; Kevin.Brennan@faegrebd.com; Hope.Costa@faegrebd.com; Beena.Patel@faegrebd.com; Nicholas.Manetto@faegrebd.com; saaron@mercuryllc.com; alexrenjel@ [Ex. FPHSCHAIP PHYSCHYP]. Angie. Giancarlo@mail.house.gov; Annie_Caputo@epw.senate.gov; Michael.J.Catanzaro@ [Ex. 6 Personal Privacy (PP)] brian.c.mormino@Cummins.com; chadbradley@ [Ex. 6 Personal Privacy (PP)] Dan.Barron@arlp.com; Elizabeth.Fox@mail.house.gov; frank.r.fannon@ EL. & Personal Privacy (PP) suzannegillen@ EL. & Personal Privacy (PP) martyhall1@ Ex. 6 Personal Privacy (PP) ames@okeeffestrategies.com; keenglish78@ Ex. 6 Personal Privacy (PP) MaryAnne.Dunlap@sanofipasteur.com; mhite@GPAglobal.org; Ference@S-3Group.com; MNellenbach@bipartisanpolicy.org; Nathan.Richmond@ | El. & Parsonal Privacy (PP) | Neil.Naraine@ipaper.com; rebafree@ Ex. & Parsonal Privacy (PP) | louis.renjel@duke-energy.com: sdhigley@marathonpetroleum.com; thassenboehler@[[E. & Personal Privacy (PP)] | dimitri.karakitsos@hklaw.com; blu.hulsey@clr.com; Anna.Burhop@bracewell.com; rick@cypressgroupdc.com; ltravers1011@ Ex. 6 Personal Privacy (PP) Hanley, Mary [Hanley.Mary@epa.gov]; Sherlock, Scott [Sherlock.Scott@epa.gov]; Orr.kimberlie@Epa.gov; McLean, Sarsah [McLean.Sarsah@epa.gov]; Huddleston, Don [Huddleston.Don@epa.gov]; Anapolle, Kent [Anapolle.Kent@epa.gov]; Cheatham, Tony [Cheatham.Tony@epa.gov]; Funke.odelia@Epa.gov; Roepe, Wayne [Roepe.Wayne@epa.gov]; Godwin, Dave [Godwin.Dave@epa.gov]; mary_frances_repko@epw.senate.gov; Mary.Martin@mail.house.gov; Rick.Kessler@mail.house.gov; Luke_Holland@inhofe.senate.gov; Wendi_Price@inhofe.senate.gov; richard_russell@epw.senate.gov; Brian_Clifford@epw.senate.gov; Justin_Memmott@epw.senate.gov; Ford, Hayley [ford.hayley@epa.gov]; Jenkins, Donna [Jenkins, Donna@epa.gov]; Vance, Eric [Vance.Eric@epa.gov]; adaccurzio@neuropace.com; Francis.J.Brooke@ Ex. 6 Personal Privacy (PP) CC: Block, Molly [block.molly@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Bolen, Brittany [bolen.brittany@epa.gov]; Fotouhi, David [fotouhi.david@epa.gov]; Ringel, Aaron [ringel.aaron@epa.gov]; Abboud, Michael [abboud.michael@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Baptist, Erik [baptist.erik@epa.gov]; Beach, Christopher [beach.christopher@epa.gov]; Beck, Nancy [Beck.NancyB@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Bolen, Derrick [bolen.derrick@epa.gov]; Brown, Byron [brown.byron@epa.gov]; Burke, Marcella [burke.marcella@epa.gov]; Chancellor, Erin [chancellor.erin@epa.gov]; Cook, Steven [cook.steven@epa.gov]; Cory, Preston (Katherine) [Cory.Preston@epa.gov]; Daniell, Kelsi [daniell.kelsi@epa.gov]; Darwin, Henry [darwin.henry@epa.gov]; Darwin, Veronica [darwin.veronica@epa.gov]; Dominguez, Alexander [dominguez.alexander@epa.gov]; Falvo, Nicholas [falvo.nicholas@epa.gov]; Feeley, Drew (Robert) [Feeley.Drew@epa.gov]; Ferguson, Lincoln [ferguson.lincoln@epa.gov]; Forsgren, Lee [Forsgren.Lee@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]; Gordon, Stephen [gordon.stephen@epa.gov]; Greaves, Holly [greaves.holly@epa.gov]; Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Gunasekara, Mandy [Gunasekara.Mandy@epa.gov]; Hanson, Paige (Catherine) [hanson.catherine@epa.gov]; Harlow, David [harlow.david@epa.gov]; Hewitt, James [hewitt.james@epa.gov]; Hupp, Millan [hupp.millan@epa.gov]; Kelly, Albert [kelly.albert@epa.gov]; Konkus, John [konkus.john@epa.gov]; Kundinger, Kelly [kundinger.kelly@epa.gov]; Leopold, Matt [Leopold.Matt@epa.gov]; Letendre, Daisy [letendre.daisy@epa.gov]; Lovell, Will (William) [lovell.william@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; McMurray, Forrest [mcmurray.forrest@epa.gov]; Munoz, Charles [munoz.charles@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Rodrick, Christian [rodrick.christian@epa.gov]; Ross, David P [ross.davidp@epa.gov]; Schwab, Justin [schwab.justin@epa.gov]; Seabaugh, Catherine [seabaugh.catherine@epa.gov]; Shimmin, Kaitlyn [shimmin.kaitlyn@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Wagner, Kenneth [wagner.kenneth@epa.gov]; Wehrum, Bill [Wehrum.Bill@epa.gov]; White, Elizabeth [white.elizabeth@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Woods, Clint [woods.Clint@epa.gov]; Yamada, Richard (Yujiro) [mnellenbach@bpcaction.org]; Andrews, Joshua L. [Joshua.Andrews@FaegreBD.com]; Matthew Hite [mhite@gpamidstream.org]

Subject: Reminder: Please RSVP - EPA Deputy Administrator's Ceremonial Swearing-In

Location: Green Room

Start: 5/4/2018 3:00:00 PM **End**: 5/4/2018 4:30:00 PM

Show Time As: Busy

Message

From: Wheeler, Andrew [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=17A1669EF5B54FBA8CB457845308787E-WHEELER, AN]

Sent: 4/23/2018 2:42:00 PM

To: Higley, Stephen D. (MPC) [sdhigley@marathonpetroleum.com]

CC: Burton, Tamika [burton.tamika@epa.gov]

Subject: RE: RSVP / meeting request

Thanks for the note Steve and I'm sorry you can't make it. As I'm sure you will understand the invite is not transferrable. I'm only inviting EPW alums and the people who worked with me at the firm and EPA 20+ years ago. I'm not inviting any outside lobbyists.

From: Higley, Stephen D. (MPC) [mailto:sdhigley@marathonpetroleum.com]

Sent: Monday, April 23, 2018 9:31 AM

To: Wheeler, Andrew < wheeler.andrew@epa.gov> **Cc:** Burton, Tamika < burton.tamika@epa.gov>

Subject: RSVP / meeting request

Andrew – congratulations again on your confirmation, and thank you for the invitation to next Friday's ceremony. I would love to attend, but unfortunately will be out of town that day. Please let me know if you would like Jake Menefee (my boss – head of MPC's Washington DC office) to attend instead, as I am sure he would be more than happy to be there.

Also, once you've had a chance to get settled in a little, Jake and I would be glad for the opportunity to bring in one or two of our company officers to meet with you and give you a brief overview of a few of MPC's priority issues. As we're headquartered in Ohio, we just need a few days' lead time to plan for travel for anyone coming in from our HQ, so I am happy to work with your office to coordinate on a day and time that works with your schedule.

Thanks and congratulations again – my colleagues and I look forward to working with you in your new capacity as Deputy Administrator.

Best regards, Steve

Stephen D. Higley

Marathon Petroleum Corporation
Manager, Federal Government Affairs
1201 F Street NW, Suite 625
Washington, DC 20004

Office: (202) 442-2456 Cell: (202) 697-3774 Fax: (202) 442-2492

E-mail: sdhigley@marathonpetroleum.com

-----Original Appointment-----

From: burton.tamika@epa.gov [mailto:burton.tamika@epa.gov] On Behalf Of Wheeler, Andrew

Sent: Friday, April 20, 2018 2:47 PM

To: |wyak@ Ex. 6 Parsonal Privacy (PP) | msquared615@ | Ex. 6 Parsonal Privacy (PP) | | Vmcwhorter@smithpachter.com; |auren.tabbara@ | Ex. 6 Parsonal Privacy (PP) |

jcoghlan@ Ex. 6 Personal Privacy (PP) | jak1201@ Ex. 6 Personal Privacy (PP) | Dave.Zook@faegrebd.com; Mary.Bono@faegrebd.com; Josh.Andrews@faegrebd.com; Darrin.Munoz@faegrebd.com; Brandon.Kirkham@faegrebd.com;

Subject: [EXTERNAL] Please RSVP - EPA Deputy Administrator's Ceremonial Swearing-In **When:** Friday, May 04, 2018 11:00 AM-12:30 PM (UTC-05:00) Eastern Time (US & Canada).

Where: Green Room

EPA Guests and Colleagues,

You are invited to join for Andrew Wheeler's ceremonial swearing-in as Deputy Administrator. The swearing-in will take place <u>Friday, May 4, 2018 at 11:00 am</u> in the Green Room. Some light refreshments will follow.

In order to ensure access to the Green Room and an accurate head count, please RSVP by replying to this invitation by COB, Monday, April, 30.

Message

From: woods.clint@epa.gov [woods.clint@epa.gov]

Sent: 3/11/2019 11:18:11 AM

To: Geoffrey Moody [GMoody@afpm.org]

CC: Rakosnik, Delaney [rakosnik.delaney@epa.gov]

Subject: Re: Meeting Request

Geoff,

Thanks again for having me. That sounds great - I've Delaney Rakosnik, who may be able to help us find a good date/time in the next couple weeks.

Clint

On Mar 7, 2019, at 4:16 PM, Geoffrey Moody <<u>GMoody@afpm.org</u>> wrote:

Clint, great seeing you earlier this week. I know you're juggling a lot right now, but I was wondering you had some time next week for a couple of us from AFPM to come in and touch base on a couple issues?

Thanks in advance,

Geoff Moody

Vice President Government Relations

American

Fuel & Petrochemical Manufacturers

1800 M Street NW Suite 900 North Washington, DC 20006 202.467.0480 office 202.844.5489 direct 202.280.0430 mobile

gmoody@afpm.org

Learn more about AFPM at afpm.org

From: Michael McAdams [michael.mcadams@advancedbiofuels.onmicrosoft.com]

Sent: 6/13/2019 3:52:43 PM

To: Woods, Clint [woods.clint@epa.gov]

CC: Birsic, Michael J. [mjbirsic@marathonpetroleum.com]

Subject: FW: BIOFUELS UPDATE: ***Groups Press EPA to Move Quickly on Bio-Intermediates Rule

Clint: I wanted to forward you the OPIS article yesterday which discussed the letter we sent over to Assistant Administrator Wherum. We really appreciated his coming to our board meeting and his frank and in depth discussion of all things RFS. The exchange between he and Paul A was a good one and led to the letter being written and sent along. Appreciate your guidance on our efforts in this regard. All the best,

Michael McAdams President, ABFA

----Original Message----

From: alertsadmin@opisnet.com <alertsadmin@opisnet.com>

Sent: Wednesday, June 12, 2019 3:31 PM

To: Michael McAdams <michael.mcadams@advancedbiofuels.onmicrosoft.com>

Subject: BIOFUELS UPDATE: ***Groups Press EPA to Move Quickly on Bio-Intermediates Rule

2019-06-12 03:30:54 EDT

***Groups Press EPA to Move Quickly on Bio-Intermediates Rule

U.S. production of cellulosic biofuels could increase significantly over the next several years if EPA agrees to finalize a section of a long-delayed proposed rule that would permit feedstocks partially processed at one site to be refined into finished renewable fuel at a second location, the Advanced Biofuels Association (ABFA) and a group of feedstock suppliers, technology providers and oil refiners told the agency on Wednesday.

In a letter to William Wehrum, assistant administrator at EPA's Office of Air and Radiation, ABFA and the Coalition to Address Removal of Regulatory Impediments (CARRI) asked the agency to allow for the production, transfer and use of the partly finished feedstocks, known as bio-intermediates, in renewable fuel production and permit that fuel to generate D3 and D7 Renewable Identification Number (RIN) credits.

The Renewable Fuel Standard does not now allow renewable feedstocks produced at one location then further processed at a second site to generate RINs.

While EPA intended to address that issue as part of its broader Renewables Enhancement and Growth Support (REGs) rule proposed in November 2016, it has yet to release a final rule.

"We fully appreciate the significant challenges and resource demands the [Renewable Fuel Standard] program places on your office and your staff and we stand fully committed to support you and your team going forward," the groups told Wehrum.

EPA in April said it planned to reopen for additional comment language in the REGs rule that would have allowed the agency to make public additional data on small-refinery exemptions that is now treated as confidential business information. The agency, however, has yet to proceed with that plan.

Still, ABFA and CARRI said EPA should "consider taking a similar approach to bio-intermediates," adding that doing so would signal companies and investors that it plans to "move forward with addressing this significant current impediment to the transition to advanced cellulosic fuels." Further, the groups said reopening the bio-intermediates portion of the REGS rule "would establish a timeline by which the market could finally initiate certainty into production and planning."

The groups added that they believe EPA could also carve out and finalize the bio-intermediates section of the REGS rule without seeking additional comment. In addition, they said that until a final rule is in place, the agency has authority to allow companies to register pathways to generate RINs from bio-intermediates.

Because there are only a "handful of companies currently prepared to immediately take advantage of the bio-intermediates pathways" approving those pathways in the interim "would not stress agency resources," the organizations said in their letter.

ABFA and CARRI also told EPA that the bio-intermediates proposal has broad support across the industry and pointed to companies that signed the letter, including the Aerospace Industries Association, Airlines for America, BP, Shell, Neste and sustainable aviation fuel (SAF) producers Fulcrum Bioenergy, Gevo, Red Rock Biofuels and Velocys.

ABFA President Michael McAdams told OPIS that issuing a bio-intermediates rule soon would be one of the best ways for EPA to encourage a sharp increase in cellulosic biofuel production, a segment of the renewable fuels industry whose output has lagged far behind early expectations.

The rule would allow companies producing such bio-intermediates to avoid having to spend the time and money to build the technology needed to finish the fuel and instead allow them to ship their product to existing refineries where they can be run through FCC units, he said.

The domestic refining industry operates 95 FCCs and if 3% of that capacity were devoted to processing renewable bio-intermediate feedstocks, then U.S. production of SAF, for example, could soar to 3 billion gallons/year, or about 10% of the country's total jet fuel consumption, McAdams said.

Under such a scenario, refiners would be able to increase the number of RINs they are able to generate internally and benefit from the sale of premium-priced biofuels like SAF and cellulosic diesel.

--Jeff Barber, jbarber@opisnet.com

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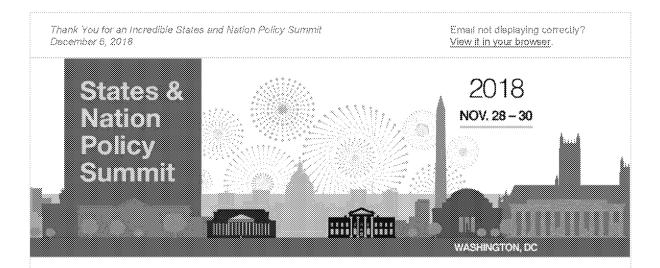
You are currently subscribed to opisethanol as: michael.mcadams@advancedbiofuels.onmicrosoft.com. To unsubscribe, please send your request via email to energycs@opisnet.com. To find out more about OPIS visit us @ http://www.opisnet.com

From: American Legislative Exchange Council [tmclaughlin@alec.org]

Sent: 12/6/2018 5:12:42 PM

To: Woods, Clint [woods.clint@epa.gov]

Subject: A Look Back at the 2018 States and Nation Policy Summit



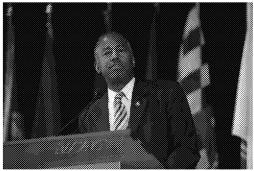
Three Days of Limited Government, Free Markets and Federalism in the Nation's Capital

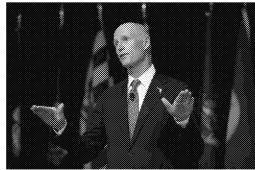
Dear Clint,

Thank you for attending the States and Nation Policy Summit. The ALEC team hopes you enjoyed the program and left with the shot of "patriotic adrenaline" you needed to begin your 2019 session with a focus on service to community, less government and more freedom.

While the meeting has come to an end, you can still help **promote what you learned**, **provide feedback** and of course **submit your travel reimbursement** forms to your state chair (please do so before December 12 to receive reimbursement by December 18).

Promote What You Learned





Every speech from SNPS was livestreamed on the <u>ALEC Facebook page</u>, and dozens of ALEC membership shared the video reactions to speeches. We've also posted the video at a <u>special</u>, <u>shareable webpage at ALEC.org</u>. Your public support and sharing of your time at ALEC is the single best endorsement ALEC can achieve. If you like what you saw last week, please share it with your colleagues. It helps them better understand the value and access ALEC membership provides.

Click to See All SNPS Speakers

<u>Highlighted Interviews</u>



PA Senator John Eichelberger discusses Worker Freedom Post Janus with Chris Mohrman of CL4Ed



ALEC Chief Economist Jonathan Williams and SC Rep Garry Smith on E-Commerce Post-Wayfair



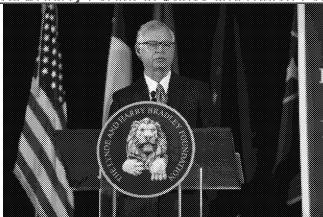
Marc Levin of TPPF and Ronnie Lampard of ALEC talk Criminal Justice and the FIRST STEP Act



Chet Love of Cornerstone and Everett Jesse of Kurrent on Blockchain and Innovation

View and Share All Interviews and Other Meeting Media on the ALEC Facebook

The Inaugural Bradley Forum at States and Nation Policy Summit



ALEC was fortunate to partner with the Lynde and Harry Bradley Foundation to host the inaugural iteration of the *Bradley Forum* on Friday morning at the States and Nation Policy Summit. Rick Esenberg of Wisconsin Institute of Law and Liberty, Tarren Bragdon of the Foundation for Government Accountability and Henry Olsen of the Ethics and Public Policy Center conducted a panel hosted by Ramesh Ponnuru of *National Review*. You can view the forum, as well as related post-forum interviews by following the link below.

View Bradley Forum Page

Provide Feedback



ALEC is yours. And, your feedback matters. This meeting, based on your feedback, ALEC changed meal session programming to allow for more fellowship amongst members AND more focus on the keynote speakers. When you tell us how we can be better, you make it

easy for the ALEC team to build the organization you want. Please take a moment to fill out the <u>meeting survey</u>:

Fill out the Meeting Survey

Travel Reimbursement



The ALEC team is streamlining the internal reimbursement/fulfilment process. Please make every effort to submit travel reimbursement requests to your state chair by December 12. For travel reimbursement accounts in good standing, ALEC will commit to fulfilling all approved reimbursement requests submitted on or before the deadline by December 18.

Please submit travel reimbursement requests and documentation using this form to your state chair or to membership@alec.org.

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Our mailing address is:

Jason Bethke 2900 Crystal Drive Arlington, Va 22202

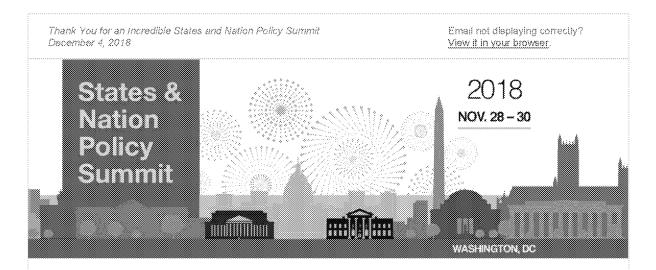
update subscription preferences

From: American Legislative Exchange Council [tmclaughlin@alec.org]

Sent: 12/4/2018 8:00:23 PM

To: Woods, Clint [woods.clint@epa.gov]

Subject: ALEC SNPS Follow Up - Reimbursement



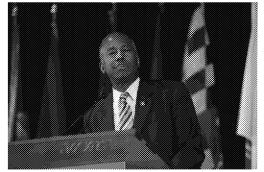
Thank You for an Incredible States and Nation Policy Summit

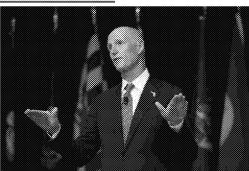
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Click to See All SNPS Speakers





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Fill out the Meeting Survey

Travel Reimbursement



The ALEC team is streamlining the internal reimbursement/fulfilment process. Please make every effort to submit travel reimbursement requests to your state chair by December 12. For travel reimbursement accounts in good standing, ALEC will commit to fulfilling all approved reimbursement requests submitted on or before the deadline by December 18.

Please submit travel reimbursement requests and documentation using this form to your state chair or to membership@alec.org.

Sincerely,
Bill Meierling
EVP, External Relations

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Our mailing address is:

Jason Bethke 2900 Crystal Drive Arlington, Va 22202

update subscription preferences

From: American Legislative Exchange Council [tmclaughlin@alec.org]

Sent: 11/30/2018 12:06:32 AM

To: Woods, Clint [woods.clint@epa.gov]

Subject: SNPS Daily Recap: A Day Full of #ALECIdeas

States and Nation Policy Summit
Thursday, November 29 Recap

States and Nation Policy Summit
Thursday, November 29 Recap

2018
Nov. 28 – 30

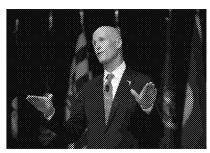
Welcome to the States and Nation Policy Summit in Washington D.C.

Make Sure to Check out the Slideshow

Thursday, November 29 Daily Recap

Thursday's Featured Speakers

Breakfast Plenary



U.S. Senator-Elect Rick Scott Florida



U.S. Senator Ted Cruz Texas



Mr. Gary Shapiro Consumer Technology Association

Watch Breakfast Plenary Session Here

Senator-Elect Scott Start: 10:11

Mr. Shapiro Start: 39:12

Technology Panel Start: 57:51

Senator Cruz Start: 1:21:59

Lunch Plenary



Administrator Seema Verma CMS



Mr. Mark Janus Liberty Justice Center



Senator Brian Kelsey TN Senate

Fmr. Sec. Bill Bennett CL4Ed

Watch Lunch Plenary Session Here

Administrator Verma Start: 16:40 Mr. Janus and Sen. Kelsey Start: 41:55 Fmr. Sec. Bennett Start: 1:05:52

Thursday Highlights



PA Senator John Eichelberger discusses Worker Freedom Post Janus with Chris Mohrman of CL4Ed



Penobscot County Commissioner Andre Cushing discusses his ALEC Journey

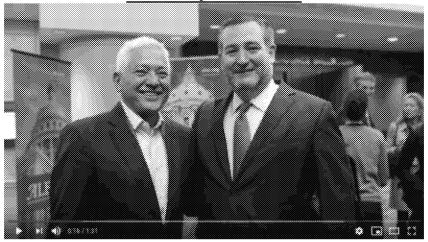


ALEC Members Hard at Work as the First Round of Task Force Meetings Kicks Off



Chet Love and Everett Jesse Talk About the Applications and Power of Blockchain

Thursday Slideshow



State Legislators to AirBnB: Don't Restrict Free-Market Enterprise

Join the Conversation

Meeting Hashtags: #ALECinDC and #ALECideas



Tune in to my Facebook page at ~8:15am CT to watch my live remarks at #ALECinDC with @ALEC_states. —> facebook.com/SenatorTedCruz

ALEC & GALEC, states
Welcome to three days of
Similardgovernment, Miremarkets and
**indatelism in the Nation's Capital at
SALECIDEC.



7:58am - 29 Nov 2018 - Twitter for liPhone



Administrator Seema Verma 🗇

State leaders are closer to the people & the problems they face each day, which gives them the knowledge & the motivation necessary to take action & make the tough policy decisions needed. #ALECINDC

13:32pm - 39 Nov 2018 - Twitter Web Client



Rick Scott ()

This may not be a popular opinion in Washington, but I believe the federal government should have less power, not more. Even in the Senate, I will always fight for the principle of federalism.

Thank you, @ALEC_states, for having me this morning!

ALEC & GALEC states
Thank you @PLGovScott for addressing
legislators from across the states today at
#ALECTRIZE



1043am - 29 Nov 2018 - Twitter for Shane (FWashington, OC, United States

Click to Tweet Below

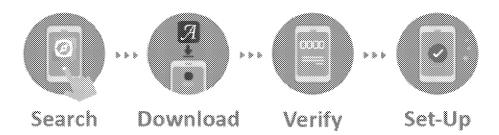


What an amazing day at
#ALECinDC hearing from
speakers like @SenTedCruz,
@FLGovScott and @SeemaCMS
#ALECideas



Can't wait to learn about more free-market #ALECideas tomorrow at #ALECinDC

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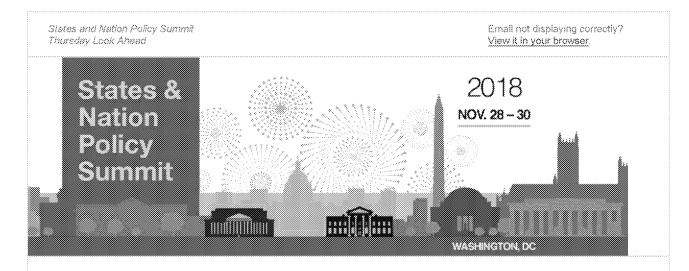
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From: American Legislative Exchange Council [tmclaughlin@alec.org]

Sent: 11/29/2018 12:13:23 PM

To: Woods, Clint [woods.clint@epa.gov]

Subject: SNPS Thursday Look Ahead: Read, Share and Join in



Welcome to the States and Nation Policy Summit in Washington D.C.

Thursday, Nov. 29 7:30 AM - 5:00 PM

Registration and Check-In Friday. Nov. 30 7:30 AM - 3:00 PM

Thursday Look Ahead

Daily Agenda

NOTE: The Breakfast Plenary now begins at 8:00 AM Today

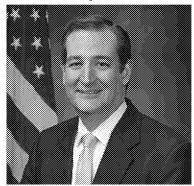
THURSDAY, NOVEMBER 29 | AGENDA

Time	Program	Room	Ploor
7:00 AM - 7:50 AM	Capital Commission Devotional Meeting	Washington Boardroom	Constitution Level (38)
7:30 AM - 5:00 PM	Registration and Media Check-In	Registration Desk	Constitution Level (38)
8:00 AM - 3:00 PM	Exhibit Hall/Media Row	Independence Foyer	Independence Level (58)
10:00 AM - 3:00 PM	CARE Training (Rolling 30-Minute Sessions)	Renwick	Constitution Level (38)
8:00 AM - 8:45 AM	Networking Breakfast	independence Ballroom	Independence Level (58)
8:45 AM - 9:45 AM	General Session	Independence Ballroom	Independence Level (58)
10:00 AM - 11:00 AM	Innovation Roundtable	Constitution E	Constitution Level (3B)
10:00 AM - 11:00 AM	Small Cell Technology in Local Communities	Cabin John/Arlington	Constitution Level (38)
10:00 AM - 11:15 AM	Workshop: Legislators Guide to Prescription Drug Pricing and Policy	Constitution A	Constitution Level (38)
10:45 AM - 12:00 PM	O Workshop: Taking Action on Janus	Constitution 8	Constitution Level (38)
10:45 AM - 12:00 PM	Training: Data Driven Policy 2018	Constitution C/D	Constitution Level (38)
11:00 AM - 12:00 PM	Saving Tao Money in Local Budgets	Cabin John/Arlington	Constitution Level (36)
12:15 PM - 1:15 PM	General Session	independence Bailroom	Independence Level (58)
1:15 PM - 2:15 PM	Networking Lunch	Independence Ballroom	Independence Level (58)
2:30 PM - 3:30 PM	**************************************	Cabin John/Arlington	Constitution Level (38)
2:30 PM - 3:30 PM	Capitol Commission Informational Meeting	Cherry Biossom	Independence Level (58)
2:30 PM - 5:30 PM	Task Force Meetings		
	Civil Austice	Constitution 8	Constitution Level (38)
	Commerce, insurance and Economic Development	Constitution C/D/E	Constitution Level (38)
	Communications and Technology	Independence B/C/D/E	Independence Level (58)
	Education and Workforce Development	Lafayette/Farragut Square	Independence Level (58)
	O Federalism and International Relations	Constitution A	Constitution Level (38)
3.45 PM - 4.45 PM	ACCE Task Force Meeting	Cabin John/Arlington	Constitution Level (38)
5:30 PM - 6:30 PM	Task Force Receptions:		
	Commerce, Insurance and Economic Development	Wilson/Roosevelt	Constitution Level (38)
	Education and Workforce Development	Burnham	Constitution Level (38)
6:00 PM - 7:00 PM	Jefferson Awards Reception (By Invitation Only)	independence Ballroom	Independence Level (58)
7:00 PM - 3:00 PM	ALEC Awards Dinner (By Invitation Only)	Independence Ballmom	Independence Level (58)

Thursday's Featured Speakers

Plenary Breakfast







U.S Senator-Elect Rick Scott Florida

U.S Senator Ted Cruz Texas Mr. Gary Shapiro Consumer Technology Association

Plenary Lunch



Administrator Seema Verma CMS



Senator Brian Kelsey TN Senate



Mr. Mark JanusLiberty Justice
Center



Fmr. Secretary William J. Bennett CL4Ed

Highlighted Workshops and Opportunities

ACCE Workshop Small Cell Technology in Local Communities Cabin John/Arlington 10:00-11:00 AM

The federal and state governments are moving forward on broad sweeping reforms on siting small cell towers in cities and counties. What does it all mean for connectivity and local leadership? Hear from local leaders on how they are approaching this nuanced policy issue.

CIED Workshop Taking Action on Janus Constitution B / Corridor B 10:45 AM-12:00 PM

The stories have been heard and the victory lap taken. While litigation is taking place all over the nation, opportunities are many for legislators to learn about the various public sector labor model policies that reinforce the historic decision. Hear from Ohio Senator Bob Onder and Pennsylvania Senators John Eichelberger and Dave Argall on their experiences getting worker freedom initiatives implemented in their states.

ALEC CARE Training Sessions

Constitution 3B 8:00 AM-3:00 PM

Legislators, attend an ALEC CARE training and learn how this tool can help revolutionize how you interact with your district. Contact Aaron Gillham at agillham@alec.org for more information

In Case You Missed It...



Check out highlights from Wednesday at the States and Nation Policy Summit in this slideshow.

Join the Conversation

Meeting Hashtags: #ALECinDC and #ALECideas

Click Below to Tweet

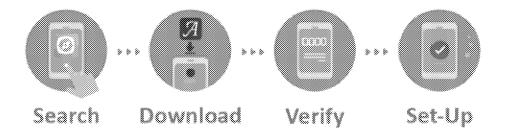


Excited to hear from leaders like @tedcruz and @WilliamJBennett today at #ALECinDC



It's so great to see so many people here getting ready for 2019 and learning about #freemarket ideas at #ALECinDC

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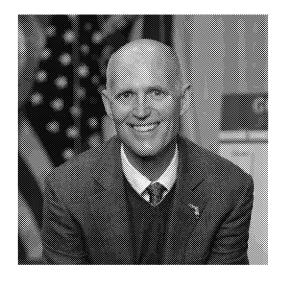
Sent: 11/29/2018 4:14:49 AM

To: Woods, Clint [woods.clint@epa.gov]

Subject: BREAKING: Senator-Elect Rick Scott Joins ALEC Tomorrow Morning



Late-Breaking Special Speaker Announcement



ALEC is excited to announce **Senator-Elect Rick Scott of Florida** will address the ALEC States and Nation Policy Summit at tomorrow's breakfast session.

Senator-Elect Scott will speak tomorrow at 8:00 AM
Please note the earlier start time

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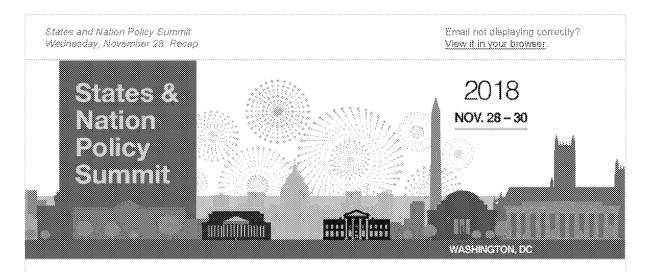
update subscription preferences

From: American Legislative Exchange Council [tmclaughlin@alec.org]

Sent: 11/29/2018 12:05:17 AM

To: Woods, Clint [woods.clint@epa.gov]

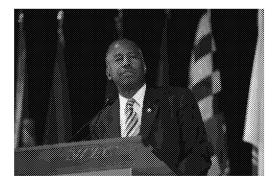
Subject: SNPS Daily Recap: An Electric First Day in DC



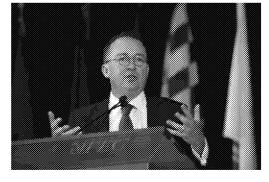
Welcome to the States and Nation Policy Summit in Washington D.C.

Wednesday, November 28 Daily Recap

Wednesday's Featured Speakers



Secretary Ben Carson
Department of Housing and
Urban Development



Director Mick MulvaneyWhite House
Office of Management and Budget

Watch Opening Lunch Plenary Session Here

Director Mulvaney Start: 27:47 Secretary Carson Start: 1:11:28

Wednesday Highlights



Lee McGrath of Institute for Justice
Discusses the Dollar Cost of OverLicensing



Ronnie Lampard of ALEC and Marc Levin of TPPF discuss Prisoner Re-Entry and the FIRST STEP Act



ALEC Members Attend a Panel on the Importance of International Trade



Fiscally Focused ALEC Members Learn about E-Commerce Post Wayfair



Join the Conversation

Meeting Hashtags: #ALECinDC and #ALECideas



Today I'm pleased to join

@ALEC_states for their States and
Nation policy conference. At

@HUDgov, our mission is greater
than simply providing housing
support for people. We want to help
them toward a life beyond

government assistance.



2:04per - 28 Nov 2018 - Twitter for iPhone



Ben Carson ()

I'm proud of the many efforts we have underway at @HUDgov, particularly those that are helping to address affordable housing challenges, reduce regulatory burdens, protect taxpayers, and spur greater economic opportunity for those we serve. @ALEC_states



2:35phs - 28 Nov 2016 - Twitter for Phone

Click to Tweet Below

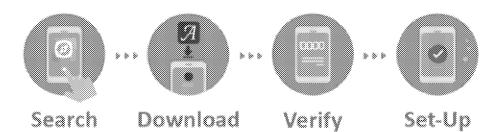


It was great to hear inspirational words from @SecretaryCarson and @MickMulvaneyOMB today at #ALECinDC



Looking forward to more
#ALECideas over the
next two days at
#ALECinDC

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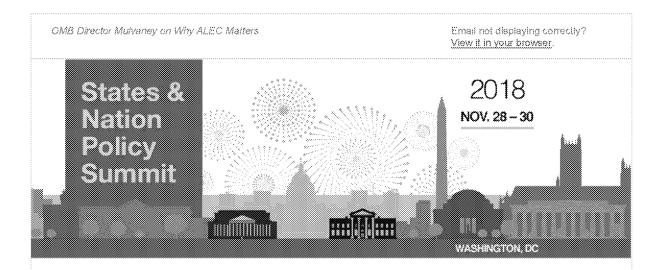
update subscription preferences

From: Lisa B. Nelson [lisanelson@alec.org]

Sent: 11/28/2018 10:27:56 PM

To: Woods, Clint [woods.clint@epa.gov]

Subject: BREAKING: Budget Director Mick Mulvaney Endorses ALEC – please watch and share



Dear friends,

It has been an electric first day at the States and Nation Policy Summit in Washington, DC. Hundreds of state legislators have gathered for fellowship and to plan their 2019 policy agendas. This afternoon, we heard from Secretary Ben Carson and Budget Director Mick Mulvaney about state's leading the way on the critical issues of our day. You can watch either archived live-stream at www.facebook.com/alec.states.

I'd like to call your attention to one excerpt from Budget Director Mick Mulvaney's speech: Director Mulvaney ahs served as a state legislator, member of Congress and now as a member of the Trump administration. This afternoon Director Mulvaney shared words of affirmation about why ALEC matters and why your work and support for more freedom and less government counts.

Please take a moment to watch and share the clip:



Sincerely,

Lisa B. Nelson ALEC CEO

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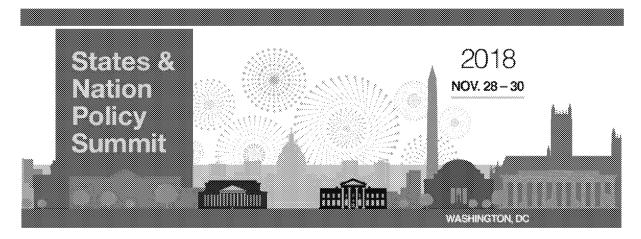
update subscription preferences

From: Elia Peterson [epeterson@alec.org]

Sent: 11/28/2018 5:51:51 AM

To: Woods, Clint [woods.clint@epa.gov]

Subject: Registration Confirmed - 2018 States & Nation Policy Summit



Dear Clint:

Congratulations! Your registration has been confirmed. Thank you for registering to attend the 2018 States & Nation Policy Summit. Please save this email for future reference.

Still need to make your hotel reservation? Make your reservation now.

Event: 2018 States & Nation Policy Summit

Attending: Clint Woods

Date: Wednesday, November 28, 2018 **Location:** Grand Hyatt Washington

Address: 1000 H St NW, Washington, District of Columbia 20001, USA

Current Registration:

Registration Information:

Registration tems

Clint

Single Day Pass (Friday)

Woods

Is this your first time attending an ALEC event?

Nο

For networking purposes, would you like to share your information with fellow attendees via our attendee list in the event app? (your name, email and organization)

No

Clint Task Force Meetings and Subcommittee Meetings are open to ALEC members only. Please contact Marie

Woods Vulaj at mvulaj@alec.org or Victoria Eberlein at veberlein@alec.org for more information on attending Task

Force Meetings and Subcommittee Meetings.

I understand

Registration Type: ALEC Government / Legislative Staff Registration Confirmation Number*: J3NGBDD6N3G Review or modify your registration details: Click here

*This is to confirm your registration for the event. This is not a hotel reservation. All hotel reservations should be made and confirmed by the hotel directly.

Manage Your Registration

If you would like to review, modify, substitute, or cancel your registration at any time, please use the link and confirmation number above to access your registration details. Registration substitutions will not be allowed once the attendee has checked in to the event. If you must cancel your registration, registrations cancelled prior to 11:59 PM ET November 8, 2018 are subject to a \$100 cancellation fee. Registrations are non-refundable after November 8, 2018.

Travel

The ALEC room block is at the Grand Hyatt Washington. You can <u>make your hotel reservation</u> <u>online</u> at the discounted rate of \$279/night. The group rate ends **Thursday, November 8, 2018** or earlier based on room availability.

Sponsorship Opportunities

Interested in having a more prominent role and connecting with 1,500+ legislators, executives, policy leaders, professionals, and network supporters at our Annual Meeting or winter meeting? Consider one of our exciting sponsorship opportunities.

Sponsorship Information - Contact <u>Victoria Eberlein</u> Exhibitor Information - Contact <u>Courtney Cook</u>

Media

Please refer to the ALEC Media Policy or contact ALEC Public Affairs with additional questions.

Want more information? Visit <u>alec.org/meetings</u> and follow ALEC on <u>Facebook</u> and <u>Twitter</u> for event updates.

We look forward to seeing you there!

Sincerely,

Eli Peterson Accountant epeterson@alec.org



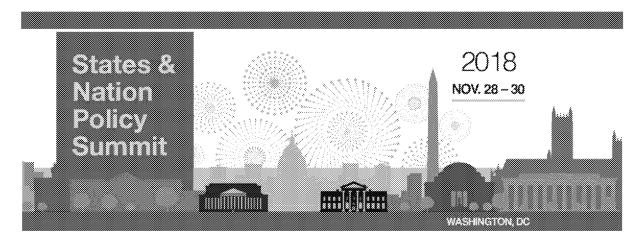


From: Elia Peterson [epeterson@alec.org]

Sent: 11/28/2018 5:51:51 AM

To: Woods, Clint [woods.clint@epa.gov]

Subject: Receipt for 2018 States & Nation Policy Summit



Dear Clint:

Below you will find your receipt for the 2018 States & Nation Policy Summit

Order Summary

Clint Woods

Order Date Order Number 28-Nov-2018 12:51 AM ET JHNC2ZPYFJ6

Summary

item	Price	Amount Paid	Amount Due
Single Day Pass (Friday)	\$0.00	\$0.00	\$0.00
	Subtotal Total Amount Paid	:	\$0,00

If you have any questions, please feel free to respond to this email.

Sincerely,

Eli Peterson Accountant epeterson@alec.org





Message

From: Grant Kidwell [gkidwell@alec.org]

Sent: 11/27/2018 6:29:50 PM

To: Woods, Clint [woods.clint@epa.gov]

Subject: RE: Speaking at upcoming ALEC meeting

Thanks and looking forward to seeing you on Friday.

From: Woods, Clint <woods.clint@epa.gov>
Sent: Tuesday, November 27, 2018 12:50 PM
To: Grant Kidwell <gkidwell@alec.org>

Subject: RE: Speaking at upcoming ALEC meeting

Grant,

Bio below:

Clint Woods serves as the Deputy Assistant Administrator in U.S. EPA's Office of Air and Radiation. Prior to joining EPA in December 2017, Clint was the Executive Director of the Association of Air Pollution Control Agencies (AAPCA), a non-profit organization of state and local air quality agencies located in Lexington, Kentucky. While with AAPCA, he was also a member of U.S. EPA's National Advisory Council on Environmental Policy and Technology. Clint previously served in positions with the Committee on Science, Space, and Technology in the U.S. House of Representatives, the American Legislative Exchange Council, and the Recreation Vehicle Industry Association. He holds an MA in international commerce and policy from George Mason University and a BA from the University of Mary Washington.

Clint Woods Deputy Assistant Administrator Office of Air and Radiation, U.S. EPA 202.564.6562

From: Grant Kidwell [mailto:gkidwell@alec.org]
Sent: Monday, November 26, 2018 1:47 PM
To: Woods, Clint < woods.clint@epa.gov>

Cc: DeLuca, Isabel <DeLuca.Isabel@epa.gov>; Rakosnik, Delaney <rakosnik.delaney@epa.gov>

Subject: RE: Speaking at upcoming ALEC meeting

Clint,

Is there a biography and head shot that you would like included in the printed agenda?

-Grant

From: Grant Kidwell

Sent: Wednesday, November 21, 2018 12:48 PM

To: Woods, Clint < woods.clint@epa.gov>

Cc: DeLuca, Isabel < DeLuca. Isabel@epa.gov>; Rakosnik, Delaney < rakosnik.delaney@epa.gov>

Subject: RE: Speaking at upcoming ALEC meeting

Clint.

Thanks again for your willingness to speak to the task force and making the time. In terms of logistics, the ALEC conference is taking place at Friday November 30th at the Grand Hyatt Washington on 1000 H St NW Washington, DC 20001. Your speaking time is at 2:35 to 3:00 and I would recommend about 15-minutes of prepared remarks and 5-10 minutes for questions. The room the EEA task force is meeting in is Constitution C/D/E which is on the level 3B of the hotel. You enter the hotel on the main level and go down to the conference level. 3B is three levels below the main level. When you enter the hotel, look for the signs pointing to registration table and they will have a speaker's badge for you and then they will be able to direct you to the EEA task force room.

If you have any questions, prior to the meeting or the day of my cell phone is Ex. 6 Personal Privacy (PP)

What: Speaking at ALEC EEA Task Force Date and Time: Friday November 30th

Location: Washington Grand Hyatt 1000 H St NW Washington, DC 20001

Room: Constitution C/D/E

From: Woods, Clint < woods.clint@epa.gov> Sent: Sunday, November 18, 2018 3:10 PM To: Grant Kidwell <gkidwell@alec.org>

Cc: DeLuca, Isabel < DeLuca.Isabel@epa.gov>; Rakosnik, Delaney < rakosnik.delaney@epa.gov>

Subject: RE: Speaking at upcoming ALEC meeting

Grant,

Thanks again for reaching out – Think I can make the afternoon of the 30th work (although I'll only be able to participate for that portion of the task force meeting). Isabel and Delaney may be in touch on any related logistics.

Clint Woods Deputy Assistant Administrator Office of Air and Radiation, U.S. EPA 202,564,6562

From: Woods, Clint

Sent: Thursday, November 15, 2018 5:10 PM To: Grant Kidwell < gkidwell@alec.org>

Subject: Re: Speaking at upcoming ALEC meeting

Grant,

Thanks so much for the invite! Let me run a couple traps and hopefully get back to you tomorrow.

Clint

On Nov 15, 2018, at 3:06 PM, Grant Kidwell <gkidwell@alec.org> wrote:

Dear Clint,

We meet briefly a couple months ago when you spoke in Salt Lake City. I am reaching out to see if you would be interested in speaking at the upcoming ALEC meeting in DC. The EEA task force meets on Friday November 30th at the Grand Hyatt Washington on 1000 H St NW Washington, DC 20001. We are looking for a speaker who could give an update to the task force on the state of the ACE rule as well as other actions coming from the Office of Air and Radiation. The presentation could be similar to the one you did in Salt Lake City. If you are interested, the task force would be excited to have a former director come speak. The time slot would be at 2:30 to 3:00 pm on Friday Nove and I usually tell speakers to have about 15-20 minutes of presentation and then allow for 5 minutes of questions. Let me know if you are interested and feel free to give me a call if you have any questions.

Sincerely,

Grant Kidwell Task Force Director Energy, Environment, and Agriculture 202 669 9910

Upcoming Meetings:

2018 States & Nation Policy Summit – November 28-30, 2018 – Washington, D.C.

The American Legislative Exchange Council is a 501(c)3 nonprofit organization and is the largest nonpartisan, voluntary membership organization of state legislators in the United States dedicated to the principles of limited government, free markets and federalism. The Council is governed by state legislators who comprise the National Board of Legislators and is advised by the Private Enterprise Advisory Council, a group of private, foundation and think tank members.

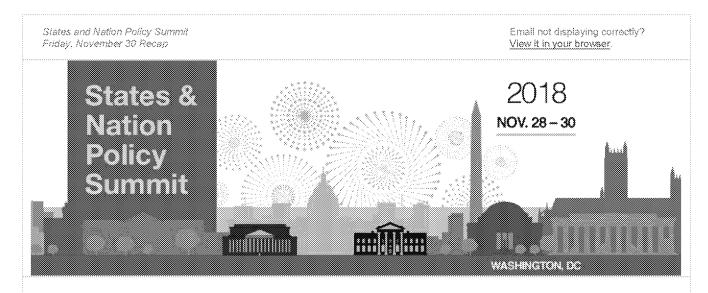
Website | Facebook | Twitter | Blog

From: American Legislative Exchange Council [tmclaughlin@alec.org]

Sent: 11/30/2018 10:51:14 PM

To: Woods, Clint [woods.clint@epa.gov]

Subject: SNPS Daily Recap: 3 Days of Limited Government, Free Markets and Federalism



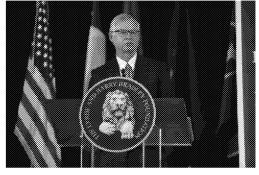
Thank You for Joining ALEC at the States and Nation Policy Summit in Washington D.C.

Happy Holidays and Safe Travels!

Friday, November 30 Daily Recap

Friday's Featured Speakers

Breakfast Plenary



Mr. Richard Graber
The Lynde and Harry Bradley Foundation



Mr. Ramesh Ponnuru Foundation for National Review Government



Mr. Tarren Bragdon
Foundation for
Government
Accountability



Mr. Henry Olsen Ethics and Public Policy Center

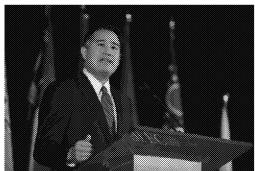


Mr. Rick Esenberg Wisconsin Institute For Law and Liberty

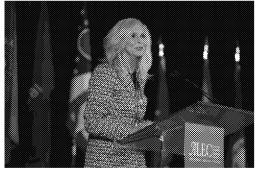
Watch Breakfast Plenary Session Here

Mr. Graber Start: 8:26
Mr. Ponnuru Start: 15:49
Mr. Olsen Start: 19:20
Mr. Bragdon Start: 29:45
Mr. Esenberg Start: 41:21
Full Panel Start: 53:04

Lunch Plenary



Undersecretary Derek Kan U.S. Department of Transportation



Hon. Lynn Fitch Treasurer, State of Mississippi

Watch Lunch Plenary Session Here

Treasurer Fitch Start: 39:10
Undersecretary Kan Start: 50:47

Friday Highlights



ALEC Chief Economist Jonathan Williams and SC Rep. Garry Smith Talk Post-Wayfair Policy



Political Zoology and the New Landscape with Henry Olsen of the EPPC

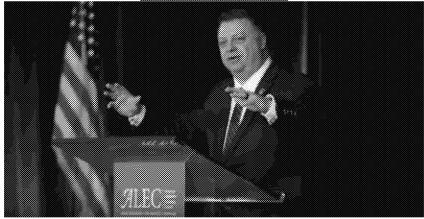


Lowering Barriers to Economic Empowerment with Tarren Bragdon of the FGA



Rick Esenberg of Wisconsin Institute of Law and Liberty on the Power of Federalism

Friday Slideshow



Join the Conversation

Meeting Hashtags: #ALECinDC and #ALECideas

Click to Tweet Below



What a great 3 days of #Limitedgovernment,

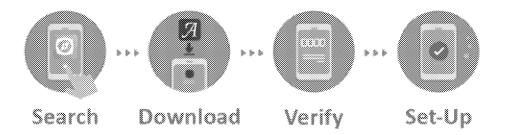


What a great last day

#ALECinDC! Can't wait until next year!

hearing great speakers and learning about sound freemarket policy at #ALECinDC

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Jason Bethke 2900 Crystal Drive Arlington, Va 22202

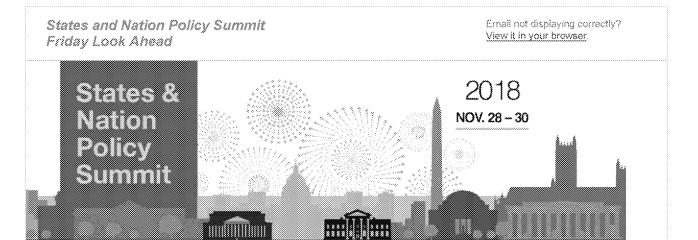
update subscription preferences

From: American Legislative Exchange Council [tmclaughlin@alec.org]

Sent: 11/30/2018 12:38:18 PM

To: Woods, Clint [woods.clint@epa.gov]

Subject: SNPS Friday Look Ahead: Into the New Year



Thank You For Attending the States and Nation Policy Summit in Washington D.C.

Registration and Check-In

Friday. Nov. 30 7:30 AM - 3:00 PM

Friday Look Ahead

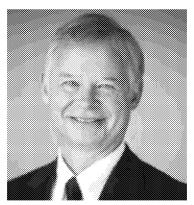
Daily Agenda

FRIDAY, NOVEMBER 30 | AGENDA

Time	Program	Soom	Floor
7:00 AM - 7:50 AM	Capitel Commission Devotional Meeting	Washington Boardroom	Constitution Level (38)
7:30 AM - 3:00 PM	Registration and Media Check-in	Registration Desk	Constitution Level (38)
8:00 AM - 3:00 PM	Exhibit Hall/Media Row	Independence Foyer	independence Level (58)
10:00 AM - 12:00 PM	CARE Training (Rolling 30-Minute Sessions)	Benwick	Constitution Level (38)
8:00 AM - 8:45 AM	Networking Breakfast	Independence Baliroom	Independence Level (58)
8:45 AM - 9:45 AM	General Session	Independence Ballroom	Independence Level (58)
10:00 AM - 11:00 AM	Local Officials Testifying Before Legislative Committees	Cabin John/Arlington	Constitution Level (36)
10:00 AM - 11:15 AM	Workshop: Challenges and Opportunities for Affordable and Reliable Energy	Constitution B	Constitution Level (38)
11:00 AM - 12:00 PM	i.ccal Identity	Catin ichn/Adington	Constitution Level (38)
10:45 AM + 12:00 PM	Workshop: Political Speech on the Internet — How the Push for "Transparency" Censors the People's Voice	Constitution C/D/E	Constitution Level (36)
10:45 AM - 12:00 PM	Training: Polling Hits, Misses and Lessons Learned from the 2018 Midterms	Constitution A	Constitution Level (38)
12:15 PM - 1:15 PM	General Session	Independence Ballroom	Independence Level (58)
1:15 PM - 2:15 PM	Networking Lunch	Independence Ballicom	independence Level (58)
2:30 PM - 3:30 PM	Capitol Commission Informational Meeting	Cherry Blassom	Independence Level (58)
2:30 PM - 5:30 PM	Task Force Meetings:		
	Criminal Austice	Constitution A	Constitution Level (38)
	() Energy, Environment and Agriculture	Constitution C/D/E	Constitution Level (38)
	(2) Homeland Security	Lafsyette/Farragut Square	Independence Level (58)
	Health and Human Services	Constitution 8	Constitution Level (38)
	Tax and Fiscal Policy	Independence 8 /C/D/E	Independence Level (58)
5:30 PM - 6:30 PM	(i) Task Fore Reception: Health and Human Services	Wison/Roosevelt	Constitution Level (36)
7:00 PM - 11:00 PM	State Night	Off-Site: Contact your State Chair for Details	

Thursday's Featured Speakers

Plenary Breakfast: Presenting the First-Ever Bradley Forum
What the Midterms Mean for Free-Market Policy in The States



Mr. Richard Graber
The Lynde and Harry Bradley Foundation



Mr. Ramesh Ponnuru National Review



Mr. Tarren Bragdon Foundation for Government Accountability

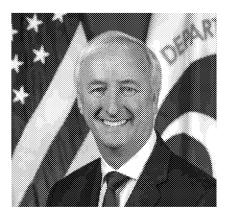


Mr. Henry Olsen Ethics and Public For Law and Policy Center



Mr. Rick Esenberg Wisconsin Institute Liberty

Plenary Lunch



Undersecretary Jeffrey A. Rosen U.S. Department of Transportation



Hon. Lynn Fitch Treasurer, State of Mississippi

Featured Workshops

Political Speech on the Internet How the Push for "Transparency Censors the People's Vote Constitution C/D/E 10:45 AM - 12:00 PM

Join us to learn how bills that regulate online speech impact free speech and censor the people's voice, as well as what you can do to ensure transparency for the government while protecting the privacy of "We The People."

Polling Hits, Misses and Lessons Learned from the 2018 Midterms Constitution A 10:45 AM - 12:00 PM

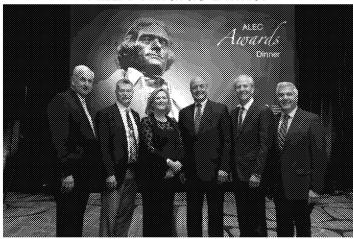
Join Trafalgar Group Principal Robert Cahaly for an in-depth look at Georgia and Texas polling and what broad policy trends will impact the national conversation in 2020.

Challenges and Opportunities for Affordable and Reliable Energy Constitution B

10:00-11:15 AM

This Workshop will explore the path forward to ensuring Americans have affordable and reliable energy to power their lives

ALEC Awards Dinner



Last evening, ALEC recognized leaders in the States and within the organization. Please join us in congratulating this year's Awardees.

Legislator of The Year

MO Rep. Justin Hill and

LA Sen. Sharon Hewitt

Public Sector

SC Rep. **Garry Smith**

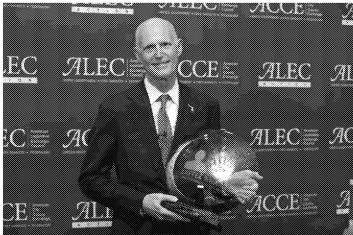
Private Sector Chair of The Year Chair of The Year

> Mr. Brad Swanson Mr. Clark Riemer Florida Internet and Television

Volunteer of the Year

Chief fo Staff to NC Rep. Jason Saine

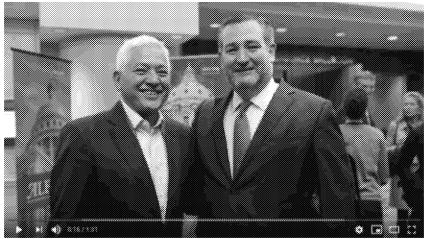
Laffer Award For Economic Excellence



For his dedication to reducing taxes in his state and commitment to sound economic policy,

ALEC is proud to recognize **Senator-Elect Rick Scott of Florida** as its second winner of the **Laffer Award for Economic Excellence**.

In Case You Missed It...



Check out highlights from Thursday at the States and Nation Policy Summit in this slideshow.

Miss a Keynote Session?

Not to worry. All Plenary sessions are uploaded to the ALEC Facebook page and can be accessed by following the link below

See All Videos

Join the Conversation

Meeting Hashtags: #ALECinDC and #ALECIdeas

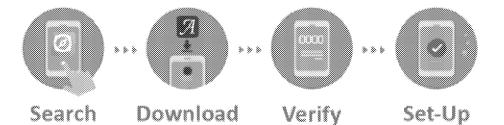


Thanks for a great three days of #limitedgovernment, #freemarkets and #federalism at #ALECinDC



It's so great to see so many people here getting ready for 2019 and learning about #freemarket ideas at #ALECinDC

Don't Forget to Download the Exclusive Meeting App



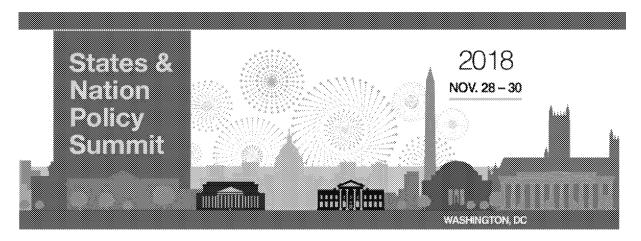
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	Our mailing address is:
	Jason Bethike
	2900 Crystal Drive
	Arlington, Va 22202
	update subscription preferences

From: ALEC Events [meetings@alec.org]

Sent: 11/25/2018 7:28:15 PM

To: Woods, Clint [woods.clint@epa.gov]

Subject: Registration Pending Approval - 2018 States & Nation Policy Summit



Dear Clint:

Thank you for submitting your registration for the 2018 States & Nation Policy Summit. In accordance with our policies, we review all registrations. This review policy ensures registrants have selected the most appropriate registration option. You will receive notification of registration status within five (5) business days. Your payment will not be processed until your registration is accepted. Payment amount may be adjusted to reflect the correct registration type and fees associated.

Registration Confirmation Number*: J3NGBDD6N3G

Attending: Clint Woods

Date: Wednesday, November 28, 2018 to Friday, November 30, 2018

Location: Grand Hyatt Washington

*This is to confirm your registration for the event. This is not a hotel reservation. All hotel reservations should be made and confirmed with the hotel directly.

<u>Click here</u> to view your current registration details. You will be asked to enter your confirmation number.

Sincerely,

ALEC Events meetings@alec.org





Message

Grant Kidwell [gkidwell@alec.org] From:

Sent: 11/21/2018 7:15:35 PM

To: Woods, Clint [woods.clint@epa.gov] Subject: RE: Speaking at upcoming ALEC meeting

Here is the floor plan of the hotel

https://assets.hyatt.com/content/dam/hyatt/hyattdam/documents/2018/07/11/1153/Grand-Hyatt-Washington-Floor-Plans-English-071118.pdf

From: Grant Kidwell

Sent: Wednesday, November 21, 2018 12:48 PM

To: Woods, Clint < woods.clint@epa.gov>

Cc: DeLuca, Isabel <DeLuca.Isabel@epa.gov>; Rakosnik, Delaney <rakosnik.delaney@epa.gov>

Subject: RE: Speaking at upcoming ALEC meeting

Clint,

Thanks again for your willingness to speak to the task force and making the time. In terms of logistics, the ALEC conference is taking place at Friday November 30th at the Grand Hyatt Washington on 1000 H St NW Washington, DC 20001. Your speaking time is at 2:35 to 3:00 and I would recommend about 15-minutes of prepared remarks and 5-10 minutes for questions. The room the EEA task force is meeting in is Constitution C/D/E which is on the level 3B of the hotel. You enter the hotel on the main level and go down to the conference level. 3B is three levels below the main level. When you enter the hotel, look for the signs pointing to registration table and they will have a speaker's badge for you and then they will be able to direct you to the EEA task force room.

If you have any questions, prior to the meeting or the day of my cell phone is Ex. 6 Personal Privacy (PP)

What: Speaking at ALEC EEA Task Force Date and Time: Friday November 30th

Location: Washington Grand Hyatt 1000 H St NW Washington, DC 20001

Room: Constitution C/D/E

From: Woods, Clint < woods.clint@epa.gov> Sent: Sunday, November 18, 2018 3:10 PM To: Grant Kidwell <gkidwell@alec.org>

Cc: DeLuca, Isabel <DeLuca.Isabel@epa.gov>; Rakosnik, Delaney <rakosnik.delaney@epa.gov>

Subject: RE: Speaking at upcoming ALEC meeting

Grant,

Thanks again for reaching out – Think I can make the afternoon of the 30th work (although I'll only be able to participate for that portion of the task force meeting). Isabel and Delaney may be in touch on any related logistics.

Clint Woods **Deputy Assistant Administrator** Office of Air and Radiation, U.S. EPA 202.564.6562

From: Woods, Clint

Sent: Thursday, November 15, 2018 5:10 PM **To:** Grant Kidwell skidwell@alec.org

Subject: Re: Speaking at upcoming ALEC meeting

Grant,

Thanks so much for the invite! Let me run a couple traps and hopefully get back to you tomorrow.

Clint

On Nov 15, 2018, at 3:06 PM, Grant Kidwell <gkidwell@alec.org> wrote:

Dear Clint,

We meet briefly a couple months ago when you spoke in Salt Lake City. I am reaching out to see if you would be interested in speaking at the upcoming ALEC meeting in DC. The EEA task force meets on Friday November 30th at the Grand Hyatt Washington on 1000 H St NW Washington, DC 20001. We are looking for a speaker who could give an update to the task force on the state of the ACE rule as well as other actions coming from the Office of Air and Radiation. The presentation could be similar to the one you did in Salt Lake City. If you are interested, the task force would be excited to have a former director come speak. The time slot would be at 2:30 to 3:00 pm on Friday Nove and I usually tell speakers to have about 15-20 minutes of presentation and then allow for 5 minutes of questions. Let me know if you are interested and feel free to give me a call if you have any questions.

Sincerely,

Grant Kidwell
Task Force Director
Energy, Environment, and Agriculture
202 669 9910

Upcoming Meetings:

2018 States & Nation Policy Summit – November 28-30, 2018 – Washington, D.C.

The American Legislative Exchange Council is a 501(c)3 nonprofit organization and is the largest nonpartisan, voluntary membership organization of state legislators in the United States dedicated to the principles of limited government, free markets and federalism. The Council is governed by state legislators who comprise the National Board of Legislators and is advised by the Private Enterprise Advisory Council, a group of private, foundation and think tank members.

Website | Facebook | Twitter | Blog

From: American Legislative Exchange Council [tmclaughlin@alec.org]

Sent: 12/13/2018 7:37:02 PM

To: Woods, Clint [woods.clint@epa.gov]
Subject: This Week At ALEC: 12/13/2018

This Week At ALEC - 12/13/2018

Email not displaying correctly? View it in your browser.



ALEC Digital Exchange - December 13, 2018

A Note on Reimbursement

Please make every effort to submit travel reimbursement requests to your state chair immediately. The initial deadline for 2018 reimbursement fulfillment was December 12. For travel reimbursement accounts in good standing, ALEC will attempt to fulfill all approved reimbursement requests submitted in a timely fashion by December 18.

Please submit travel reimbursement requests and documentation using this form to your state chair or to membership@alec.org.

SNPS Speaker Recap



ALEC played host to a number of influential and inspirational speakers at the States & Nation Policy Summit. If you missed out, or want to watch again, you can find all of the speeches linked below

View All Speeches

State Legislator Letter: Don't Restrict Free Market Enterprise



State Legislatoris Spor's Septido Free Starket Reterration

This attentioned applications Extraorgy Control is American's largest assignation, judiciation in conscilutation application of make politication products of this principles all principles all principles are formed as these contexts are of interested. Controlled of a medit raw application are unusually distinct politications and controlled and are interested as a controlled and are a controlled as a controlled and are a controlled as a controlled as a controlled and are a controlled as a controlled and are a controlled as a controlle

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Soft deliverant policy of conjunctionability discussionability facilities of conjunction policy on extension convent of a country or More than 160 legislators from 41 states have signed a letter encouraging businesses to refrain from engaging in restriction of free-market enterprise.

Read Letter View Press Release

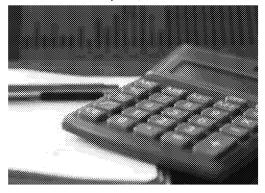
Ronnie Lampard and Marc Levin talk FIRST STEP



While at the States & Nation Policy
Summit, Criminal Justice Director
Ronnie Lampard caught up with
Marc Levin of TPPF to disucss the
FIRST STEP act and Criminal
Justice policy as a whole

View Interview

The Williams Report, December 2018



Stay current with the latest developments in state budgets and pensions with the latest edition of *The Williams Report*. This report covers fiscal news relevant to pensions and budgets from the early part of December.

Read Article

Discussion on Political Bias on Tech Platforms



ALEC General Counsel and Chief Innovation officer Bartlett Cleland will be speaking at a discussion on regulation of online tech platforms later today on Capitol Hill in front of more than 160 influencers. ALEC has previous work on the subject of content moderation linked below.

Read Article

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Our mailing address is:

Jason Bethke 2900 Crystal Drive Arlington, Va 22202

update subscription preferences

Message

From: Rakosnik, Delaney [rakosnik.delaney@epa.gov]

Sent: 3/12/2019 1:50:32 PM

To: Geoffrey Moody [GMoody@afpm.org]; Woods, Clint [woods.clint@epa.gov]

Subject: RE: [EXTERNAL] - RE: [EXTERNAL] - Re: Meeting Request

WJC -N 5415. My apologies, I thought this was a call as opposed to an in-person meeting.

From: Geoffrey Moody <GMoody@afpm.org> Sent: Monday, March 11, 2019 5:23 PM

To: Rakosnik, Delaney <rakosnik.delaney@epa.gov>; Woods, Clint <woods.Clint@epa.gov>

Subject: RE: [EXTERNAL] - RE: [EXTERNAL] - RE: [EXTERNAL] - Re: Meeting Request

Which building? I'm probably going to include Rich Moskowitz in the meeting as well

From: Rakosnik, Delaney < rakosnik.delaney@epa.gov>

Sent: Monday, March 11, 2019 4:32 PM

To: Geoffrey Moody <<u>GMoody@afpm.org</u>>; Woods, Clint <<u>woods.clint@epa.gov</u>> **Subject:** [EXTERNAL] - RE: [EXTERNAL] - RE: [EXTERNAL] - Re: Meeting Request

Tomorrow will work. You are on his calendar at 5pm. He will call you on the cell number you provided below.

From: Geoffrey Moody < GMoody@afpm.org> Sent: Monday, March 11, 2019 4:27 PM

To: Rakosnik, Delaney <rakosnik.delaney@epa.gov>; Woods, Clint < woods.Clint@epa.gov>

Subject: RE: [EXTERNAL] - RE: [EXTERNAL] - Re: Meeting Request

Absolutely. Would tomorrow work?

From: Rakosnik, Delaney < rakosnik.delaney@epa.gov>

Sent: Monday, March 11, 2019 1:39 PM

To: Geoffrey Moody <GMoody@afpm.org>; Woods, Clint <woods.clint@epa.gov>

Subject: [EXTERNAL] - RE: [EXTERNAL] - Re: Meeting Request

Geoff,

He's free at 5pm all week. Is 5pm an option for you?

Thanks, Delaney

From: Geoffrey Moody <<u>GMoody@afpm.org</u>> Sent: Monday, March 11, 2019 9:00 AM To: Woods, Clint <woods.Clint@epa.gov>

Cc: Rakosnik, Delaney < rakosnik.delaney@epa.gov > Subject: RE: [EXTERNAL] - Re: Meeting Request

Thank Clint. I'll work with Delaney to find a time, but If you have a couple minutes today for a quick call I'd appreciate it. Trying to run down a rumor on RFS. My cell is 202-280-0430.

Delaney, I'm relatively flexible most afternoons this week if Clint has any time.

Thanks, Geoff

From: Woods, Clint < woods.clint@epa.gov > Sent: Monday, March 11, 2019 7:18 AM
To: Geoffrey Moody < GMoody@afpm.org >

Cc: Rakosnik, Delaney < rakosnik.delaney@epa.gov>

Subject: [EXTERNAL] - Re: Meeting Request

Geoff,

Thanks again for having me. That sounds great - I've Delaney Rakosnik, who may be able to help us find a good date/time in the next couple weeks.

Clint

On Mar 7, 2019, at 4:16 PM, Geoffrey Moody <GMoody@afpm.org> wrote:

Clint, great seeing you earlier this week. I know you're juggling a lot right now, but I was wondering you had some time next week for a couple of us from AFPM to come in and touch base on a couple issues?

Thanks in advance,

Geoff Moody Vice President Government Relations

American

Fuel & Petrochemical
Manufacturers
1800 M Street NW
Suite 900 North
Washington, DC 20006
202.457.0480 office
202.844.5489 direct
202.280.0430 mobile

gmoody@afpm.org

Learn more about AFPM at afpm.org

Message

From: Higley, Stephen D. (MPC) [sdhigley@marathonpetroleum.com]

Sent: 1/8/2018 2:42:31 PM

To: Woods, Clint [woods.clint@epa.gov]

Subject: Re: [EXTERNAL] E-Connect

Perfect. Thanks and I look forward to seeing you then.

Steve

On Jan 8, 2018, at 9:40 AM, Woods, Clint <woods.clint@epa.gov> wrote:

Steve.

That works – We'll be in room 5415 in the North building. Thanks!

Clint

From: Higley, Stephen D. (MPC) [mailto:sdhigley@marathonpetroleum.com]

Sent: Monday, January 8, 2018 9:27 AM **To:** Woods, Clint < woods.clint@epa.gov > **Subject:** RE: [EXTERNAL] E-Connect

Clint – thanks for the quick response. 3:00 today would be great. Would be glad to get together in person if it's not any sort of inconvenience for you – otherwise a call would be fine. Just let me know what works best on your end.

Thanks, Steve

From: Woods, Clint [mailto:woods.clint@epa.gov]

Sent: Monday, January 08, 2018 9:21 AM

To: Higley, Stephen D. (MPC); Gunasekara, Mandy

Subject: RE: [EXTERNAL] E-Connect

Thanks Mandy!

Steve – Any chance 20 - 30 mins at 3:00 today or tomorrow might work to touch base on SSM? Let me know and I can give you a call or set something up in-person. Thanks!

Clint Woods Deputy Assistant Administrator Office of Air and Radiation, U.S. EPA 202.564.6562

From: Higley, Stephen D. (MPC) [mailto:sdhigley@marathonpetroleum.com]

Sent: Monday, January 8, 2018 9:08 AM

To: Gunasekara, Mandy < Gunasekara, Mandy@epa.gov>

Cc: Woods, Clint < woods.clint@epa.gov>
Subject: RE: [EXTERNAL] E-Connect

Great. Thanks Mandy, much appreciated.

Clint, I would be glad for the chance to visit with you on SSM whenever you have a few minutes. I'll be out of pocket until about 10:30 this morning, but should be fairly reachable otherwise today. Tomorrow works as well if today's not good for you.

Thanks, Steve

Stephen D. Higley

Marathon Petroleum Corporation Manager, Federal Government Affairs 1201 F Street NW, Suite 625 Washington, DC 20004

Office: (202) 442-2456 Cell: (202) 697-3774 Fax: (202) 442-2492

E-mail: sdhigley@marathonpetroleum.com

From: Gunasekara, Mandy [mailto:Gunasekara.Mandy@epa.gov]

Sent: Monday, January 08, 2018 9:03 AM

To: Higley, Stephen D. (MPC)

Cc: Woods, Clint

Subject: [EXTERNAL] E-Connect

Hey Steve,

Great catching up for a bit. As promised, I've cc'd Clint Woods our new Deputy in the Air Office. He will be good to connect with regarding SSM.

Best, Mandy

Mandy M. Gunasekara

Principal Deputy Assistant Administrator Office of Air and Radiation US Environmental Protection Agency

Message

From: Higley, Stephen D. (MPC) [sdhigley@marathonpetroleum.com]

Sent: 2/26/2018 7:53:06 PM

To: Woods, Clint [woods.clint@epa.gov]

CC: Caravelli, Margaret (mcaravelli@balch.com) [mcaravelli@balch.com]

Subject: Re: [EXTERNAL] RE: MPC meeting request - March 5 or 7

Thanks Clint - heard from Emily, and we are set for 2:00 on the 7th. Looking forward to seeing you and David then.

Best regards,

Steve

On Feb 26, 2018, at 1:44 PM, Woods, Clint <woods.clint@epa.gov> wrote:

Steve.

Thanks so much, and sorry for the delay! If you don't mind, Emily Atkinson will be following up on timing. I think the 7th will likely work better, but I would like to make sure our NSR guru, David Harlow, can participate.

Clint Woods Deputy Assistant Administrator Office of Air and Radiation, U.S. EPA 202,564,6562

From: Higley, Stephen D. (MPC) [mailto:sdhigley@marathonpetroleum.com]

Sent: Thursday, February 22, 2018 3:57 PM **To:** Woods, Clint <<u>woods.clint@epa.gov</u>>

Cc: Caravelli, Margaret (mcaravelli@balch.com) <mcaravelli@balch.com>

Subject: MPC meeting request - March 5 or 7

Clint – I hope all is well with you. Greg Myers, MPC's Senior Air Quality Professional, will be in town for a couple days the first week of March. We are hoping to come in for a quick visit on NSR and SSM, and perhaps also touch base on ozone. Would you (and any other appropriate OAR staff) have time to meet briefly on either Monday, March 5 or Wednesday, March 7? Any time 3:30 or later on the 5th, or between 1:00-3:00 on the 7th, should work for us if you have any availability in those windows – if not, I can try to move some other things around.

Thanks for your consideration, Steve 202-442-2456

Message

From: Woods, Clint [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC65010F5C2E48F4BC2AA050DB50D198-WOODS, CLIN]

Sent: 11/27/2018 5:49:46 PM

To: Grant Kidwell [gkidwell@alec.org]
Subject: RE: Speaking at upcoming ALEC meeting

Attachments: ClintWoods8x10.jpg

Grant.

Bio below:

Clint Woods serves as the Deputy Assistant Administrator in U.S. EPA's Office of Air and Radiation. Prior to joining EPA in December 2017, Clint was the Executive Director of the Association of Air Pollution Control Agencies (AAPCA), a non-profit organization of state and local air quality agencies located in Lexington, Kentucky. While with AAPCA, he was also a member of U.S. EPA's National Advisory Council on Environmental Policy and Technology. Clint previously served in positions with the Committee on Science, Space, and Technology in the U.S. House of Representatives, the American Legislative Exchange Council, and the Recreation Vehicle Industry Association. He holds an MA in international commerce and policy from George Mason University and a BA from the University of Mary Washington.

Clint Woods Deputy Assistant Administrator Office of Air and Radiation, U.S. EPA 202.564.6562

From: Grant Kidwell [mailto:gkidwell@alec.org]
Sent: Monday, November 26, 2018 1:47 PM
To: Woods, Clint < woods.clint@epa.gov>

Cc: DeLuca, Isabel <DeLuca.Isabel@epa.gov>; Rakosnik, Delaney <rakosnik.delaney@epa.gov>

Subject: RE: Speaking at upcoming ALEC meeting

Clint,

Is there a biography and head shot that you would like included in the printed agenda?

-Grant

From: Grant Kidwell

Sent: Wednesday, November 21, 2018 12:48 PM

To: Woods, Clint < woods.clint@epa.gov>

Cc: DeLuca, Isabel < DeLuca. Isabel@epa.gov>; Rakosnik, Delaney < rakosnik.delaney@epa.gov>

Subject: RE: Speaking at upcoming ALEC meeting

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level. When you enter the hotel, look for the signs pointing to registration table and they will have a speaker's badge for you and then they will be able to direct you to the EEA task force room.

If you have any questions, prior to the meeting or the day of my cell phone is 703 409 5379

What: Speaking at ALEC EEA Task Force Date and Time: Friday November 30th

Location: Washington Grand Hyatt 1000 H St NW Washington, DC 20001

Room: Constitution C/D/E

From: Woods, Clint < woods.clint@epa.gov > Sent: Sunday, November 18, 2018 3:10 PM
To: Grant Kidwell < gkidwell@alec.org >

Cc: DeLuca, Isabel < DeLuca. Isabel@epa.gov>; Rakosnik, Delaney < rakosnik.delaney@epa.gov>

Subject: RE: Speaking at upcoming ALEC meeting

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Clint Woods Deputy Assistant Administrator Office of Air and Radiation, U.S. EPA 202,564,6562

From: Woods, Clint

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We meet briefly a couple months ago when you spoke in Salt Lake City. I am reaching out to see if you would be interested in speaking at the upcoming ALEC meeting in DC. The EEA task force meets on Friday November 30th at the Grand Hyatt Washington on 1000 H St NW Washington, DC 20001. We are looking for a speaker who could give an update to the task force on the state of the ACE rule as well as other actions coming from the Office of Air and Radiation. The presentation could be similar to the one you did in Salt Lake City. If you are interested, the task force would be excited to have a former director come speak. The time slot would be at 2:30 to 3:00 pm on Friday Nove and I usually tell speakers to have about 15-20 minutes of presentation and then allow for 5 minutes of questions. Let me know if you are interested and feel free to give me a call if you have any questions.

Sincerely,

Grant Kidwell Task Force Director Energy, Environment, and Agriculture 202 669 9910

Upcoming Meetings:

2018 States & Nation Policy Summit – November 28-30, 2018 – Washington, D.C.

The American Legislative Exchange Council is a 501(c)3 nonprofit organization and is the largest nonpartisan, voluntary membership organization of state legislators in the United States dedicated to the principles of limited government, free markets and federalism. The Council is governed by state legislators who comprise the National Board of Legislators and is advised by the Private Enterprise Advisory Council, a group of private, foundation and think tank members.

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Message

Woods, Clint [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP From:

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC65010F5C2E48F4BC2AA050DB50D198-WOODS, CLIN]

Sent: 3/11/2019 11:18:12 AM

To: Geoffrey Moody [GMoody@afpm.org]

CC: Rakosnik, Delaney [rakosnik.delaney@epa.gov]

Subject: Re: Meeting Request

Geoff,

Thanks again for having me. That sounds great - I've Delaney Rakosnik, who may be able to help us find a good date/time in the next couple weeks.

Clint

On Mar 7, 2019, at 4:16 PM, Geoffrey Moody <GMoody@afpm.org> wrote:

Clint, great seeing you earlier this week. I know you're juggling a lot right now, but I was wondering you had some time next week for a couple of us from AFPM to come in and touch base on a couple issues?

Thanks in advance,

Geoff Moody

Vice President Government Relations

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Learn more about AFPM at afpm.org

From: Woods, Clint [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP

(FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC65010F5C2E48F4BC2AA050DB50D198-WOODS, CLIN]

Sent: 1/15/2018 3:52:51 PM

To: Woods, Clint [woods.Clint@epa.gov]

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Subject:

Updated Contact Information

All,

Happy New Year! Late last year, I started a new position with the U.S. Environmental Protection Agency's Office of Air and Radiation in Washington, DC. It has been a great pleasure to work closely with you in the past, and I look forward to continuing to do so in this role. Below is my updated contact information, and please don't hesitate to reach out if there is anything I can do for you.

Thanks!

Clint Woods
Deputy Assistant Administrator
Office of Air and Radiation, U.S. EPA
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